

HB 1166 - FINAL VERSION

06/16/2020 1471s
30Jun2020... 1629EBA

2020 SESSION

20-2209
01/06

HOUSE BILL ***1166***

AN ACT relative to unemployment compensation, certain sanitary protections for COVID-19, extending the federal Family and Medical Leave Act for certain COVID-19 protections, and waiving cost sharing for testing and treatment for COVID-19.

SPONSORS: Rep. Knirk, Carr. 3; Rep. Muscatel, Graf. 12; Rep. Indruk, Hills. 34; Rep. M. Pearson, Rock. 34; Rep. Weston, Graf. 8; Rep. Butler, Carr. 7; Rep. Woods, Merr. 23; Rep. Fargo, Straf. 14; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24; Sen. Hennessey, Dist 5

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill:

- I. Makes various changes in unemployment compensation for purposes of the Coronavirus (COVID-19).
- II. Extends the provisions of the federal Family and Medical Leave Act for certain COVID-19 protections.
- III. Requires employers to provide certain sanitation conditions relating to COVID-19.
- IV. Waives cost-sharing for testing for COVID-19 under accident and health insurance policies.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT relative to unemployment compensation, certain sanitary protections for COVID-19, extending the federal Family and Medical Leave Act for certain COVID-19 protections, and waiving cost sharing for testing and treatment for COVID-19.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 New Subparagraph; Unemployment Compensation; Self-Employment Assistance Program. Amend RSA 282-A:31-h, V by inserting after subparagraph (e) the following new subparagraph:
 (f) The requirements of this chapter not met due to a participant's quarantine for coronavirus or COVID-19, or for COVID-19 related reasons, as directed by a medical provider shall not be applicable to the participant.
- 2 New Subparagraph; Unemployment Compensation; Benefit Eligibility Conditions. Amend RSA 282-A:31, I by inserting after subparagraph (i) the following new subparagraph:

(j) Subparagraphs (a) through (g) shall not apply to an individual in quarantine for coronavirus, or COVID-19, as directed by a medical provider or government direction, or for COVID-19 related reasons, and subparagraphs (h) and (i) shall be suspended until July 1, 2021.

3 New Paragraph; Unemployment Compensation; Disqualification for Benefits. Amend RSA 282-A:32 by inserting after paragraph IV the following new paragraph:

V. Individuals impacted by COVID-19 shall not be disqualified for benefits pursuant to provisions in paragraphs I and II and such unemployment insurance benefits coverage shall include, at a minimum, situations where:

(a) An employer or employing unit temporarily shuts down due to coronavirus, or COVID-19, with the expectation that the individual will return when business resumes;

(b) An individual is quarantined by a medical professional or under government direction, and the employer has instructed the individual to return to work after the quarantine is over or has not provided clear instruction to do so; and

(c) An individual is quarantined by a medical professional or under government direction, or leaves employment due to a reasonable risk of exposure or infection, including self-quarantine, or to care for a family member, and either does not intend to return to the employer or the employer will not allow the individual to return.

4 Unemployment Compensation; Unavailable for Work. Amend RSA 282-A:39 to read as follow:

282-A:39 Unavailable for Work. An individual shall be disqualified for benefits for any week or weeks during any part of which he is not available for work outside a home, irrespective of his reason for refusing to be available for work outside a home, ***unless the individual is in quarantine for coronavirus (COVID-19), or for COVID-19 related reasons, as directed by a medical provider.***

5 New Section; Protective Legislation. Amend RSA 275 by inserting after section 52-a the following new section:

275:52-b Protections for Coronavirus (COVID-19). The provisions of the federal Family and Medical Leave Act of 1993, 29 U.S.C. section 28, shall be extended to all employees of employers with at least 15 or more employees for any employee in quarantine, or covered family member in quarantine, for coronavirus or COVID-19, or for a COVID-19 related reason, as directed by a medical provider or under government direction. This section shall not apply to individual instances in which the commissioner determines there to be an economic hardship.

6 Unemployment Compensation; Overpayment. Amend RSA 282-A:165, I to read as follows:

I. Any person who has received any benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled or while the person was disqualified from receiving benefits shall be liable to repay to the commissioner such benefits all of which shall be considered to be overpayments, ***with the exception of persons receiving benefits under executive orders related to COVID-19 expanded eligibility.***

7 Unemployment Compensation; Annual Earnings. Amend RSA 282-A:16 to read as follows:

282-A:16 Annual Earnings. "Annual earnings" shall be the wages, to the nearest dollar, earned during each base period from an employer by an individual in employment in New Hampshire and an amount equivalent to the average weekly wage, as determined under the New Hampshire workers' compensation statute, for each week that an individual has been found by either the labor commissioner or a court to be entitled to receive workers' compensation based on a claim involving such employer; no portion of any lump sum payment pursuant to RSA 281-A:37 shall constitute annual earnings. For any week which commences during the period between 2 successive sports seasons (or similar periods), no annual earnings shall be available for purposes of RSA 282-A:25 to any individual which are based on any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods). ***For any week in which an individual was on an unpaid leave, pursuant to the federal Family and Medical Leave Act of 1993, 29 U.S.C. section 28, or on a paid leave, for reasons similar to the federal Family and Medical Leave Act of 1993, 29 U.S.C. section 28, then the individual's annual earnings for those weeks on such leave shall be deemed the earnings the individual received prior to the leave.***

8 Department of Employment Security; Computer System; Transfer of Moneys. The treasurer and the governor shall transfer \$50,000,000 from CARES Act moneys to the department of employment security, with the commissioner first applying any moneys needed to upgrade the benefits application computer system, and any other computer system, to reflect, to code, and to account for any and all expanded COVID-19 eligibility factors, including self-employment. Following such upgrades and coding the commissioner shall certify to the chairs of the house commerce and consumer affairs committee and senate commerce committee and the chairs of house and senate finance committees that such upgrades and coding were completed in a manner that manual overrides are not needed for any expanded COVID-19 eligibility factors, that no delays in processing benefits for expanded COVID-19 eligibility factors exist as compared with eligibility factors existing prior to COVID-19, and report any amounts necessary to complete the upgrades and coding, including when the upgrades and coding for each eligibility factor was completed. The balance of any moneys transferred after first

applying any moneys needed for upgrading and coding shall be deposited in the unemployment insurance trust fund. In the event the United States Department of Labor provides a written notice to the New Hampshire department of employment security that any specific statutory change in this act will result in the loss of federal funding to New Hampshire then that specific statutory change, and that specific statutory change only, shall be inoperative.

9 Sanitation, Provision for. Amend RSA 277:10 to read as follows:

277:10 Sanitation, Provision for. Every employer shall provide and maintain reasonable and proper toilet facilities and reasonably sanitary and hygienic conditions for employees, *including any and all reasonable sanitary and hygienic conditions related to COVID-19.*

10 New Section; Safety and Health of Employees; Worker Safety in COVID-19. Amend RSA 277 by inserting after section 10 the following new section:

277:10-a Worker Safety in COVID-19. Every employer shall provide, arrange access to, or provide paid time off for COVID-19 testing, upon the request of an employee. Every employer shall provide personnel protective equipment for employees in any workplace where there are 10 or more employees or customers on a regular basis, or in any health care workplace. Every employer shall comply with all applicable state and federal standards and guidances related to COVID-19. The commissioner shall accept phone calls for COVID-19 related workplace safety concerns.

11 New Paragraph; Safety and Health of Employees; Rulemaking. Amend RSA 277:16 by inserting after paragraph II the following new paragraph:

III. On or by August 1, 2020, the commissioner, in consultation with the commissioner of health and human services, shall adopt worker safety rules, pursuant to RSA 541-A, to protect workers from COVID-19 and to protect the public interest, including consistent with RSA 277:16-b, RSA 277:10-a, and RSA 277:10.

12 New Section; Safety and Health of Employees; COVID-19 Business Support. Amend RSA 277 by inserting after section 16 the following new section:

277:16-a COVID-19 Business Support. The labor commissioner shall, in coordination with the commissioner of safety, provide personnel protective equipment upon request of an employer. A state website shall be maintained for the purpose of employer requests, including adequate and timely notification of employers of when and where personnel protective equipment may be retrieved. There shall be no costs to employers with fifteen or fewer employees. The failure of the state to provide personnel protective equipment to employers who, in good faith, requested but did not receive personnel protective equipment from the state shall be considered in evaluating compliance with RSA 277:10-a.

13 New Paragraph; Job Training Program; Cost-Sharing Waived. Amend RSA 282-A:181 by inserting after paragraph II the following new paragraph:

III. Until July 1, 2021 any employer or business cost-sharing for the job training program is waived.

14 New Section; Accident and Health Insurance; Cost-Sharing for Testing for the Coronavirus (COVID-19) Waived; Individual. Amend RSA 415 by inserting after section 6-x the following new section:

415:6-y Cost-Sharing for Testing and Treatment for the Coronavirus (COVID-19) Waived. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses, shall waive cost-sharing for coronavirus (COVID-19) testing and treatment, including any out-of-network charges, for certificate holders of such insurance who are residents of this state.

15 New Section; Accident and Health Insurance; Cost-Sharing for Testing for the Coronavirus (COVID)-19 Waived; Group. Amend RSA 415 by inserting after section 18-bb the following new section:

415:18-cc Cost-Sharing for Testing and Treatment for the Coronavirus (COVID-19) Waived. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, shall waive cost-sharing for coronavirus (COVID-19) testing and treatment, including any out-of-network charges, for certificate holders of such insurance, who are residents of this state.

16 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, **RSA 415:6-y**, RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and

all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

17 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, **RSA 415:6-y**, RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

18 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

19 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

20 New Paragraph; State Employees Health Insurance; Medical and Surgical Benefits. Amend RSA 21-I:30 by inserting after paragraph XVI the following new paragraph:

XVII. Medical and surgical benefits provided under this subdivision shall include waiving cost-sharing for testing and treatment for the coronavirus (COVID-19).

21 New Subparagraph; Medicaid Managed Care, Cost-Sharing for Certain Testing Waived. Amend RSA 126-A:5, XIX by inserting after subparagraph (k) the following new subparagraph:

(l) Managed care organizations shall waive all cost-sharing for coronavirus (COVID-19) testing and treatment for Medicaid recipients receiving care pursuant to this paragraph.

22 Effective Date.

I. Sections 17 and 19 shall take effect January 1, 2021 at 12:03 p.m.

II. The remainder of this act shall take effect upon its passage.

VETOED July 17, 2020