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CHAPTER 215. SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAM

Subchapter A. General Provisions

Sec. 215.001. Definitions

In this chapter:

- (1) **"Affected unit"** means a unit of two or more employees, including a department or shift, designated by an employer to participate in a shared work plan.
- (2) **"Fringe benefit"** means health insurance, a retirement benefit received under a defined benefit plan, as defined by 26 U.S.C. Section 414(j), or under a defined contribution plan, as defined by 26 U.S.C. Section 414(i), a paid vacation day, a paid holiday, sick leave, or any other similar employee benefit provided by an employer.
- (3) **"Normal weekly hours of work"** means the number of hours in a week that an employee ordinarily works for a participating employer or an average of 40 hours per week over a two-week pay period, whichever is less.
- (4) **"Participating employee"** means an employee who works a reduced number of hours under an approved shared work plan.
- (5) **"Participating employer"** means an employer who has a shared work plan in effect.
- (6) **"Shared work benefit"** means an unemployment compensation benefit that is payable to a participating employee.
- (7) **"Shared work plan"** means a plan for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.
- (8) **"Shared work program"** means the shared work unemployment compensation program.
- (9) **"Training"** means commission-approved voluntary training sponsored by an employer or funded under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) that is designed to enhance a participant's job skills.

Sec. 215.002. Shared Work Unemployment Compensation Program

- (a) The commission, under a voluntary shared work unemployment compensation program designed to reduce unemployment and stabilize the work force, shall allow participating employees shared work benefits.
- (b) The commission may adopt rules and establish procedures necessary to administer the shared work program.

Subchapter B. Shared Work Plan

Sec. 215.021. Approval Required for Employer Plan

- (a) Before an employer may participate in the shared work program, the commission must approve the employer's shared work plan. The plan must be submitted in writing to the commission.
- (b) If an employee who participates in a shared work plan is covered by a collective bargaining agreement, the collective bargaining agent must approve the plan in writing.

Sec. 215.022. Requirements of Shared Work Plan

- (a) The commission may approve a shared work plan if:
 - (1) the plan:
 - (A) applies to and identifies a specific affected unit;
 - (B) identifies the employees in the affected unit by name and social security number and describes how the employees will be notified in advance of the plan, if feasible;
 - (C) provides an estimate of the number of employees who would be laid off if the employer does not participate in the shared work plan;
 - (D) reduces the normal weekly hours of work for an employee in the affected unit by at least 10 percent but not more than 40 percent;
 - (E) applies to at least 10 percent of the employees in the affected unit; and
 - (F) permits eligible employees to participate in training;
 - (2) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of layoffs that would:
 - (A) affect at least 10 percent of the employees in the affected unit; and

- (B) result in an equivalent reduction in work hours;
 - (3) the employer certifies that:
 - (A) if the employer currently provides fringe benefits, the fringe benefits continue for employees in the affected unit unless those benefits are not continued for employees not participating in the shared work plan; and
 - (B) participation in the shared work plan is consistent with the employer's obligations under state and federal law; and
 - (4) the employer agrees to furnish the commission reports relating to the operation of the plan as requested by the commission and any other information the United States secretary of labor determines is appropriate.
- (b) A shared work plan may not be implemented to subsidize a seasonal employer during the off-season.

Sec. 215.023. Approval or Denial of Shared Work Plan; Notice

- (a) The commission shall approve or deny a shared work plan in writing not later than the 30th day after the date the commission receives the plan.
- (b) If the commission denies the plan, the commission shall give the employer the reasons for denial.

Sec. 215.024. Effective Date of Shared Work Plan; Expiration or Termination

- (a) A shared work plan takes effect on the date the commission approves the plan.
- (b) A shared work plan expires on the last day of the 12th calendar month beginning after the effective date of the plan.
- (c) The commission may terminate a shared work plan for good cause if the plan is not being executed according to the terms and intent of the shared work program.

Sec. 215.025. Modification of Shared Work Plan

- (a) An employer may modify a shared work plan to meet changed conditions if the modification conforms to the basic provisions of the plan as approved by the commission.
- (b) Before implementing a proposed change, the employer must report the change in writing to the commission.
- (c) The commission shall reevaluate a plan that is proposed to be substantially modified.

- (d) If a proposed plan modification is substantial, the commission may approve the modified plan according to the requirements of Sections 215.022(a)(1) and (2) or shall deny the modification subject to Section 215.023.
- (e) Approval of a modified plan does not affect the plan's original expiration date.

Sec. 215.026. Participating Employer's Report on Plan Operation

A participating employer shall:

- (1) monitor and evaluate the operation of its established shared work plan as requested by the commission; and
- (2) report the findings to the commission.

Subchapter C. Shared Work Benefits

Sec. 215.041. Employee's Eligibility for Shared Work Benefits

- (a) Notwithstanding any other provision of this subtitle, an individual is unemployed for the purposes of this subtitle in a week in which the individual works under an approved shared work plan in effect for that week for less than the individual's normal weekly hours of work.
- (b) An individual is eligible to receive shared work benefits for a week in which:
 - (1) the individual is employed as a member of an affected unit subject to a shared work plan that was approved before that week and is in effect for that week;
 - (2) the individual is able to work and is available for additional hours of work or for full-time work with the participating employer; and
 - (3) the individual's normal weekly hours of work have been reduced by at least 10 percent but not more than 40 percent, with a corresponding reduction in wages.
- (c) The commission may not deny shared work benefits for a week to an otherwise eligible individual because of a provision of this subtitle that relates to:
 - (1) availability for work;
 - (2) active search for work; or
 - (3) refusal to apply for or accept work with an employer other than the participating employer.

Sec. 215.042. Shared Work Benefits Formula

- (a) The commission shall pay an individual who is eligible for shared work benefits a weekly shared work benefit in an amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's wages under the employer's shared work plan.
- (b) The commission shall round to the next highest dollar a shared work benefit that is not a multiple of one dollar.

Sec. 215.043. Limitations on Benefits

- (a) An individual is not entitled to receive shared work benefits and regular unemployment compensation benefits that exceed the maximum total benefits payable to the individual in a benefit year as provided by Section 207.005.
- (b) An individual who receives shared work benefits is not entitled to receive benefits for partial unemployment under Section 207.003 for any week in which the individual works as a participating employee.
- (c) The commission may not pay an individual shared work benefits for a week in which the individual performs paid work for the participating employer that exceeds the reduced hours established under a shared work plan.

Sec. 215.044. Extended Benefits

An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an individual who has exhausted regular benefits under Section 209.042 and is entitled to receive extended benefits under Chapter 209 if the individual is otherwise eligible under that chapter.

ILLUSTRATION: COMPUTATION OF UNEMPLOYMENT BENEFIT AMOUNTS

COMPUTATION OF UNEMPLOYMENT BENEFIT AMOUNTS

STEP 1	Determine Base Period	The <i>Base Period</i> is the first four of the last five completed calendar quarters immediately preceding the quarter in which an initial claim is filed establishing a benefit year.
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----- <i>Base Period</i> -----					
Fourth Quarter 2013	First Quarter 2014	Second Quarter 2014	Third Quarter 2014	Fourth Quarter 2014	Initial Claim January 11, 2015
\$5,420	\$5,580	\$5,670	\$5,775	\$5,825	Quarterly Earnings

STEP 2	Determine Benefit Amount for Total Unemployment	Take 1/25 of highest quarterly earnings in Base Period. For our example that is Third Quarter 2014 - \$5,775. High Quarter \$5,775/ 25 = \$231 BENEFIT AMOUNT
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Amount payable for a 7-day benefit period of total unemployment.

The maximum weekly benefit amount is 47.6% and the minimum weekly benefit amount is 7.6% of the previous year's average annual weekly wage in covered employment. These amounts are subject to change each October. Within these limits, amounts that do not compute to an even multiple of \$1 will be rounded to the nearest \$1 (i.e., \$216.20 lowered to \$216 and \$216.80 raised to \$217).

STEP 3	Determine Total Benefits for Benefit Year	Take the lesser of: 26 x the Benefit amount: 26 x \$231 = \$6,006. or 27% of total Base Period wage credits: (\$5,670 + 5,420 + 5,580 + 5,775 = \$22,445) 27% of \$22,445 = \$6,060 TOTAL BENEFITS FOR BENEFIT YEAR = \$ 6,006
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STEP 4	Determine Maximum Number of Benefit Periods of Total Unemployment for which benefits may be paid.	Divide:	Total Benefits Payable \$6,006	By Benefit Amount ÷ \$231	Number of benefit periods of total unemployment payable during benefit year = 26
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STEP 5	Computation of Benefits for Benefit Period of Partial Unemployment	Add to Benefit Amount the sum of \$5 or 25% of the benefit amount, whichever is greater. From this total subtract the amount of gross earnings.
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Benefit Amount	Work Incentive	Earnings in Benefit Period	AMOUNT PAYABLE
\$231.00	\$231.00		\$ 288.75
<u>× .25</u>	<u>+ 57.75</u>		<u>- 70.00</u>
\$57.75	\$288.75	\$70.00	\$218.75 = \$219.00

(rounded to nearest dollar)