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Senate of Pennsylvania

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senatorbartolotta.com

May 12, 2020

The Honorable Josh Shapiro
Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 16th Floor
Harrisburg, PA 17120

Attorney General Shapiro:

As Pennsylvania's top law enforcement official you have responsibility to uphold the Commonwealth's laws and regulations. In your biography on the Attorney General website, you note your mandate to ensure integrity and be the people's Attorney General.

It is from that perspective that I seek your assistance. As Chair of the Senate Labor and Industry Committee, I am dismayed by Governor Wolf's continued guidance to Pennsylvanians to inappropriately collect unemployment compensation (UC) benefits and potentially commit UC fraud.

At a press conference on Monday, April 20, the Governor was asked what an employer should do if a laid-off employee refuses to return to work and instead tries to continue to collect unemployment compensation. The Governor responded that the individual does not have to return to work and could continue to collect UC benefits, in clear defiance of state and federal law. Despite my urging and the urging of others for the Governor to correct the record, he has continued to offer similar guidance to Pennsylvanians in the weeks since that time.

Both Pennsylvania law and federal guidance clearly state that an individual who refuses suitable work in order to obtain benefits is not only ineligible for benefits, they may be committing fraud.

Section 402(a) of the Unemployment Compensation Law makes clear that an employee is not eligible for unemployment if they refuse suitable work, absent good cause. Further, Section 402(a.1) of the Law provides that an employer must notify the Department of Labor and Industry within seven days of a refusal of suitable work and that a claimant is ineligible for unemployment compensation any week in which the unemployment is due to the failure to accept an offer of suitable work. The burden is on the claimant to show that they had good cause to refuse the work offered.

Additionally, federal guidance for Coronavirus Aid, Relief and Economic Security (CARES) Act programs make explicitly clear the importance of program integrity and that the fundamental eligibility requirements of UC programs must be adhered. Unemployment Insurance Program Letter (UIPL) No. 16-20, Attachment 1, specifically addresses the return to work question in relation to eligibility for the Pandemic Unemployment Assistance Program. The UIPL states:

34. Question: If an individual refuses to return to work when called back by the employer because he or she wanted to receive unemployment benefits, would he or she be eligible for PUA?

Answer: No. If the individual refused work in order to file for unemployment benefits, he or she is not unemployed, partially unemployed, or not able or not available to work for one of the COVID-19 related reasons listed in section 2102(a)(3)(A)(ii)(I) of the CARES Act. Thus, the individual would not qualify for PUA.

With that background, I respectfully request that you provide clarity to Pennsylvanians regarding the requirement to accept suitable work and that failure to do so, absent good cause, may result in their ineligibility for UC benefits. Just as you recently advised UC claimants to be careful of scammers trying to steal personal information through fake unemployment filing websites, I ask that you offer similar caution to Pennsylvanians about the ramifications of committing UC fraud.

Thank you for your consideration.

Sincerely,



Camera Bartolotta

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