

erroneous payment was made by the State to an individual under any such program due to fraud committed by such individual, the State shall assess a penalty on such individual and deposit any such penalty received in the same manner as the State assesses and deposits such penalties under provisions of State law implementing section 303(a)(11) of the Social Security Act [42 U.S.C. 503(a)(11)], as added by subsection (a).

“(2) DEFINITION.—For purposes of this subsection, the term ‘unemployment compensation program of the United States’ means—

“(A) unemployment compensation for Federal civilian employees under subchapter I of chapter 85 of title 5, United States Code;

“(B) unemployment compensation for ex-service-members under subchapter II of chapter 85 of title 5, United States Code;

“(C) trade readjustment allowances under sections 231 through 234 of the Trade Act of 1974 (19 U.S.C. 2291-2294);

“(D) disaster unemployment assistance under section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177(a));

“(E) any Federal temporary extension of unemployment compensation;

“(F) any Federal program which increases the weekly amount of unemployment compensation payable to individuals; and

“(G) any other Federal program providing for the payment of unemployment compensation.”

#### CLARIFYING PROVISION RELATING TO BASE PERIODS

Pub. L. 105-33, title V, §5401, Aug. 5, 1997, 111 Stat. 603, provided that:

“(a) IN GENERAL.—No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

“(b) DEFINITIONS.—For purposes of this section, the terms ‘State law’, ‘base period’, and ‘State’ shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 [Pub. L. 91-373] (26 U.S.C. 3304 note).

“(c) EFFECTIVE DATE.—This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act [Aug. 5, 1997].”

#### PROFILING SYSTEM TECHNICAL ASSISTANCE

Pub. L. 103-152, §4(c), Nov. 24, 1993, 107 Stat. 1518, provided that: “The Secretary of Labor shall provide technical assistance and advice to assist the States in implementing the profiling system required under the amendments made by subsection (a) [amending this section and section 504 of this title]. Such assistance shall include the development and identification of model profiling systems.”

#### PROFILING SYSTEM REPORT TO CONGRESS

Pub. L. 103-152, §4(d), Nov. 24, 1993, 107 Stat. 1518, provided that, not later than 3 years after Nov. 24, 1993, the Secretary of Labor was to report to the Congress on the operation and effectiveness of the profiling system required under the amendments made by section 4(a) of Pub. L. 103-152 (amending this section and section 504 of this title) and the participation requirement provided by the amendments made under section 4(b) of Pub. L. 103-152 (amending this section).

### § 504. Judicial review

#### (a) Finding by Secretary of Labor; petition for review; filing of record

Whenever the Secretary of Labor—

(1) finds that a State law does not include any provision specified in section 503(a) of this title, or

(2) makes a finding with respect to a State under subsection (b), (c), (d), (e), (h), (i), or (j) of section 503 of this title,

such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28.

#### (b) Findings of fact by Secretary of Labor; new or modified findings

The findings of fact by the Secretary of Labor, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

#### (c) Affirmance or setting aside of Secretary's action; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

#### (d) Stay of Secretary's action

(1) The Secretary of Labor shall not withhold any certification for payment to any State under section 502 of this title until the expiration of 60 days after the Governor of the State has been notified of the action referred to in paragraph (1) or (2) of subsection (a) or until the State has filed a petition for review of such action, whichever is earlier.

(2) The commencement of judicial proceedings under this section shall stay the Secretary's action for a period of 30 days, and the court may thereafter grant interim relief if warranted, including a further stay of the Secretary's action and including such other relief as may be necessary to preserve status or rights.

(Aug. 14, 1935, ch. 531, title III, §304, as added Pub. L. 91-373, title I, §131(a), Aug. 10, 1970, 84 Stat. 703; amended Pub. L. 96-249, title I, §127(b)(2), May 26, 1980, 94 Stat. 367; Pub. L. 96-265, title IV, §408(b)(2), June 9, 1980, 94 Stat. 469; Pub. L. 96-473, §6(e)(2), Oct. 19, 1980, 94 Stat. 2265; Pub. L. 98-620, title IV, §402(39), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 100-485, title I, §124(b)(2), Oct. 13, 1988, 102 Stat. 2353; Pub. L. 100-628, title IX, §904(c)(1)(B), Nov. 7, 1988, 102 Stat. 3261; Pub. L. 103-152, §4(a)(2), Nov. 24, 1993, 107 Stat. 1517.)

#### AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103-152 substituted “(i), or (j)” for “or (i)”.

1988—Subsec. (a)(2). Pub. L. 100-628 substituted “(e), (h), or (i)” for “(e), or (h)”.

Pub. L. 100-485 substituted “(e), or (h)” for “or (e)”.

1984—Subsec. (e). Pub. L. 98-620 struck out subsec. (e) which provided that any judicial proceedings under this section were entitled to, and upon request of the Secretary or the State would receive, a preference and be heard and determined as expeditiously as possible.

1980—Subsec. (a)(2). Pub. L. 96-473 inserted reference to subsec. (e) of section 503 of this title.

Pub. L. 96-249 and Pub. L. 96-265 made identical amendments, substituting “subsection (b), (c), or (d)” for “subsection (b) or (c)”.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-152 effective on the date one year after Nov. 24, 1993, see section 4(f)(1) of Pub. L. 103-152, set out as a note under section 503 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-628 effective Sept. 30, 1989, with provision for optional early implementation and provision for States whose legislatures have not been in session for at least 30 days between Nov. 7, 1988, and Sept. 30, 1989, see section 3544(d) of this title.

Amendment by Pub. L. 100-485 effective on first day of first calendar quarter beginning one year or more after Oct. 13, 1988, see section 124(c)(1) of Pub. L. 100-485, set out as a note under section 653 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-265 effective July 1, 1980, see section 408(b)(3) of Pub. L. 96-265, set out as a note under section 503 of this title.

Amendment by Pub. L. 96-249 effective Jan. 1, 1983, see section 127(b)(3) of Pub. L. 96-249, set out as a note under section 503 of this title.

### § 505. Demonstration projects

#### (a) State demonstration projects authorized

The Secretary of Labor may enter into agreements, with up to 10 States that submit an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed—

- (1) to expedite the reemployment of individuals who have established a benefit year and are otherwise eligible to claim unemployment compensation under the State law of such State; or
- (2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

#### (b) Application for demonstration project; required content

The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor. Any such application shall include—

- (1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;
- (2) if a waiver under subsection (c) is requested, a statement describing the specific

aspects of the project to which the waiver would apply and the reasons why such waiver is needed;

(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

(4) assurances (accompanied by supporting analysis) that the demonstration project would operate for a period of at least 1 calendar year and not result in any increased net costs to the State's account in the Unemployment Trust Fund;

(5) a description of the manner in which the State—

(A) will conduct an impact evaluation, using a methodology appropriate to determine the effects of the demonstration project, including on individual skill levels, earnings, and employment retention; and

(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved;

(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require; and

(7) assurances that employment meets the State's suitable work requirement and the requirements of section 3304(a)(5) of the Internal Revenue Code of 1986.

#### (c) Waiver of certain requirements allowed

The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or of paragraph (1) or (5) of section 503(a) of this title, to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

#### (d) Time for demonstration project

A demonstration project under this section—

- (1) may be commenced any time after February 22, 2012;
- (2) may not be approved for a period of time greater than 3 years; and
- (3) must be completed by not later than December 31, 2015.

#### (e) Limitations on activities

Activities that may be pursued under a demonstration project under this section are limited to—

- (1) subsidies for employer-provided training, such as wage subsidies; and
- (2) direct disbursements to employers who hire individuals receiving unemployment compensation, not to exceed the weekly benefit amount for each such individual, to pay part of the cost of wages that exceed the unemployed individual's prior benefit level.

#### (f) Notification of approval or denial of application

The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

- (1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and