

New York Reduces the Period of Time that Striking Workers Must Wait Before Receiving Unemployment Insurance Benefits

On February 6, 2020, Governor Andrew Cuomo signed an amendment to New York Labor Law § 592 that reduces the period of time that striking workers must wait before receiving unemployment insurance benefits. The amendment took effect immediately.

Prior to the amendment, workers who lost their employment because of a strike or other industrial controversy (except for a lockout) generally had their benefit rights suspended for a seven-week period. In addition, the one-week waiting period applicable to all unemployment insurance claimants began after the seven-week benefit suspension period ended, meaning that striking workers generally could not obtain unemployment insurance benefits for the first eight weeks of a strike. The seven-week benefit suspension period was not applicable if the employer hired a permanent replacement worker or if it was determined by the Commissioner of Labor that: (1) the claimant is not employed by an employer that is involved in the industrial controversy that caused his or her unemployment and is not participating in the industrial controversy; or (2) the claimant is not in a bargaining unit involved in the industrial controversy that caused his or her unemployment and is not participating in the industrial controversy.

Under the amendment, workers who lose their employment due to a strike or other industrial controversy (except for a lockout) are now only required to serve a one-week benefit suspension period, which is run concurrently with the one-week waiting period applicable to all unemployment insurance claimants. This reduced benefit suspension period applies regardless of whether the strike or other concerted activity is authorized by the employees' collective bargaining representative, and also regardless of whether the concerted activity violates an existing collective bargaining agreement.

In essence, for purposes of unemployment insurance eligibility, the law now treats employees who make a conscious decision to go out on strike in the same manner as employees who are involuntarily terminated from their employment for reasons other than misconduct.

If you have any questions about this Information Memo, please contact [Nicholas P. Jacobson](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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