

SUBCHAPTER 4. EMERGENCY CONFINEMENT

10A:5-4.1 Emergency Confinement

(a)-(d) (No change.)

[(e) An inmate shall not be placed in Emergency Confinement if the inmate is a member of a vulnerable population.]

(e) An inmate, including a member of the vulnerable population, may be placed in Emergency Confinement for a period not to exceed 24 hours. Additionally, members of the vulnerable population who have been removed from general population due to receiving a disciplinary charge may be placed in Emergency Confinement, pending transfer to a Restorative Housing Unit. Absent exigent circumstances, these transfers should take place within 20 hours of placement in Emergency Confinement.

SUBCHAPTER 5. PROTECTIVE CUSTODY

10A:5-5.1 Assignment to Prehearing Protective Custody or admission to a Protective Custody Unit

(a) An inmate may be placed in Protective Custody by any of the following means:

1.-5. (No change.)

6. Involuntarily, [on the part of the inmate] in accordance with the provisions of this subchapter.

(b)-(c) (No change.)

10A:5-5.4 Review of all inmates in Protective Custody units

(a) Inmates in Protective Custody shall be provided a review every 30 days, **either through video conference or in-person**, by the Institutional Classification Committee (I.C.C.).

(b) [An inmate who is] **In addition to (a) above, each inmate** placed in Protective Custody [involuntarily] shall[, in every case, have] **be provided** an in-person hearing, in accordance with procedures specified at N.J.A.C. 10A:5-5.2 and 5.3, **a review bi-annually (twice per year) or more often, if necessary, by the Institutional Classification Committee (I.C.C.).**

(c)-(d) (No change.)

10A:5-5.5 Release of inmates in Protective Custody units

(a)-(b) (No change.)

(c) Inmates released from Protective Custody shall, when appropriate, be referred to the [CRAF Intake Unit] **intake unit** for assignment to a suitable correctional facility.

(d) (No change.)

SUBCHAPTER 9. RESTORATIVE HOUSING UNIT (R.H.U.)

10A:5-9.5 Assignment to the Restorative Housing Unit (R.H.U.)

(a) (No change.)

(b) If an inmate receives a Restorative Housing Unit sanction, the inmate shall be referred to [the Centralized Reception Assignment Facility (CRAF)] **an intake unit** to schedule inmate transfer and/or transport to a R.H.U.

(c) Time served in Prehearing Disciplinary Housing will be credited as time served in [administrative segregation] **a R.H.U.**

(d)-(i) (No change.)

10A:5-9.6 Special Administrative Review Committee ("S.A.R.C." or "the Committee")

(a)-(h) (No change.)

(i) If the S.A.R.C. determines to release the inmate, the Committee shall give the inmate written notice of the decision, however, institutional designations will not be shared with the inmate. The inmate shall be:

1.-3. (No change.)

4. Referred to the [CRAF Intake Unit] **intake unit** for transfer to a correctional facility, as determined by the S.A.R.C.

(j)-(k) (No change.)

(l) Following the decision of the S.A.R.C. to transfer an inmate to another correctional facility, the S.A.R.C. shall refer the inmate to the appropriate staff member of the [CRAF Intake Unit] **intake unit** who shall

be responsible for immediately arranging transportation of the inmate to the designated correctional facility.

LABOR AND WORKFORCE DEVELOPMENT

(a)

INCOME SECURITY

2023 Maximum Weekly Benefit Rates

2023 Taxable Wage Base Under the Unemployment Compensation Law

2023 Contribution Rate of Governmental Entities and Instrumentalities

2023 Base Week

2023 Alternative Earnings Test

Proposed Amendments: N.J.A.C. 12:15-1.2, 1.3, 1.4, 1.5, and 1.6

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:1A-3(e), 43:21-3(c), 43:21-4(e), 43:21-7(b)(3), 43:21-7.3(e), 43:21-19(t), 43:21-27, 43:21-40, and 43:21-41.

Calendar Reference: See Summary below for explanation of exception to the calendar requirement.

Proposal Number: PRN 2022-116.

Submit written comments by November 5, 2022, to:

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Office of Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development
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The agency proposal follows:

Summary

In accordance with the provisions of the Unemployment Compensation Law, N.J.S.A. 43:21-1 et seq., and the Temporary Disability Benefits Law, N.J.S.A. 43:21-25 et seq., which require the Commissioner of the Department of Labor and Workforce Development (Department) to annually establish and promulgate the maximum unemployment insurance, temporary disability insurance, and family leave insurance benefit rates, the contribution rate for governmental entities, the alternative earnings and base week amounts, and the taxable wage base, the Commissioner is proposing amendments to N.J.A.C. 12:15-1.2, 1.3, 1.4, 1.5, and 1.6 to establish these rates and amounts for 2023.

The proposed amendments at N.J.A.C. 12:15-1.2 establish the 2023 maximum weekly benefit rates for unemployment insurance benefits under the Unemployment Compensation Law and for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law. The maximum weekly benefit rates are \$830.00 for unemployment insurance and \$1,025.00 for temporary disability insurance and family leave insurance.

The proposed amendments at N.J.A.C. 12:15-1.3 establish the 2023 taxable wage base for the purpose of contributions under the Unemployment Compensation Law, in accordance with N.J.S.A. 43:21-7(b)(3), and the 2023 taxable wage base for the purpose of contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account," in accordance with N.J.S.A. 43:21-7(b)(4). The new taxable wage base would be \$41,100 for contributions under the Unemployment Compensation Law and \$156,800 for contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account."

The proposed amendment at N.J.A.C. 12:15-1.4 reflects the change in year from 2022 to 2023. The actual contribution rate for governmental entities and instrumentalities will remain unchanged from the prior year.

The proposed amendment at N.J.A.C. 12:15-1.5 establishes the amount of earnings required in 2023 to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability and family leave insurance benefits, in accordance with N.J.S.A. 43:21-19(c)(1) and (t)(3), and 43:21-27(h)(4).

The proposed amendment at N.J.A.C. 12:15-1.6 establishes the amount of base year earnings required in 2023 to establish an individual's eligibility for unemployment compensation and State plan temporary disability and family leave insurance benefits in those instances when the individual has not established 20 base weeks, in accordance with N.J.S.A. 43:21-4(e)(4)(B) and 43:21-41(d)(2).

As a 60-day comment period has been provided in the notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments at N.J.A.C. 12:15-1.2 would ensure that payments to unemployment, disability insurance, and family leave insurance recipients who are entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits.

The proposed amendment at N.J.A.C. 12:15-1.3 would generate increased revenues for the Unemployment Compensation Fund and the State disability benefits fund needed to offset the increased level of benefits for the unemployment compensation, temporary disability insurance, and family leave insurance programs, which are statutorily indexed to the trend of wages in the State's economy.

The proposed amendment at N.J.A.C. 12:15-1.4 would have no social impact.

The proposed amendments at N.J.A.C. 12:15-1.5 and 1.6 would provide for the base week amount and the amount of earnings to establish eligibility, respectively, which are indexed to the State minimum hourly wage.

Economic Impact

The proposed amendments at N.J.A.C. 12:15-1.2 would increase the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate under the Unemployment Compensation Law and under the Temporary Disability Benefits Law beginning January 1, 2023. This increase is in compliance with statutory provisions that automatically adjust these benefit rates each year, in accordance with changes in the Statewide average weekly wage. The maximum weekly benefit for unemployment compensation is computed as 56 and 2/3 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 2023, the maximum weekly benefit will increase from \$804.00 to \$830.00. The 2023 maximum benefit rate represents a 3.2 percent increase from the current benefit rate.

The maximum weekly benefit for State Plan Temporary Disability and family leave insurance is computed as 70 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 2023, the maximum weekly benefit will increase from \$993.00 to \$1,025.00. The 2023 maximum benefit rate represents a 3.2 percent increase from the current benefit rate.

The proposed amendment at N.J.A.C. 12:15-1.3(a) would increase from \$39,800 to \$41,100 the wages of an individual employee of an employer that are subject to contributions under the Unemployment Compensation Law, beginning January 1, 2023. The statutory provisions provide that the taxable wage base is computed as 28 times the Statewide average weekly wage in the second preceding calendar year. The 2023 taxable wage base for contributions under the Unemployment Compensation Law represents a 3.3 percent increase from the current wage base.

The proposed amendment at N.J.A.C. 12:15-1.3(b) would increase from \$151,900 to \$156,800 the wages of an individual employee of an employer that are subject to contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account," beginning January 1, 2023. The statutory provisions provide that the taxable wage base is computed as 107 times the Statewide average weekly

wage in the second preceding calendar year. The 2023 taxable wage base for contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account," represents a 3.2 percent increase from the current wage base.

The proposed amendment at N.J.A.C. 12:15-1.4 would have no economic impact.

The proposed amendment at N.J.A.C. 12:15-1.5 would increase from \$240.00 to \$260.00 the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits Laws, beginning January 1, 2023. The statutory provisions provide that the amount is computed as 20 times the State minimum hourly wage in effect as of October 1 of the preceding calendar year. Pursuant to N.J.S.A. 34:11-56a4, the State minimum hourly wage rate in effect as of October 1, 2022, will be \$13.00 (an increase from the minimum hourly wage rate of \$12.00, which had been in effect on October 1, 2021).

The proposed amendment at N.J.A.C. 12:15-1.6 would, beginning January 1, 2023, increase from \$12,000 to \$13,000 the alternative earnings eligibility standard under the Unemployment Compensation and Temporary Disability Benefits Laws in those situations where the individual has not established 20 base weeks in the base year period. The statutory provisions provide that the amount is computed as 1,000 times the State minimum hourly wage in effect as of October 1 of the preceding calendar year, which for the purpose of this calculation is \$13.00 (an increase from the minimum hourly wage rate of \$12.00, which had been in effect on October 1, 2021).

Federal Standards Statement

The proposed amendments do not include any standards or requirements that exceed standards or requirements imposed by Federal Law. The proposed amendments affect benefit and contribution levels under the Unemployment Compensation and Temporary Disability Benefits Laws. As a result, an explanation or analysis of the proposed amendments pursuant to N.J.S.A. 52:14B-23, is not required.

Jobs Impact

The proposed amendments would have no impact on jobs in New Jersey. The Department does not anticipate an increase or decrease in jobs as a result of these amendments.

Agriculture Industry Impact

The proposed amendments would have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments would not impose any additional reporting, recordkeeping, or compliance requirements on small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments would affect benefit and contribution levels under the Unemployment Compensation and Temporary Disability Benefits Laws. Thus, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments would not evoke a change in the average costs associated with housing, nor would they have an effect on the affordability of housing. The basis for this finding is that the proposed amendments pertain to the statutorily mandated annual adjustment of unemployment compensation, temporary disability benefits, and family leave insurance benefits rates and do not pertain to housing.

Smart Growth Development Impact Analysis

The proposed amendments would not evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed amendments pertain to the statutorily mandated annual adjustment of unemployment compensation, temporary disability benefits, and family leave insurance benefits rates and do not pertain to housing production, either within Planning Areas 1 or 2, or within designated centers.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commissioner of the Department has evaluated this rulemaking and has determined that it would not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

12:15-1.2 Maximum weekly benefit rates

(a) For unemployment compensation claims commencing on or after January 1, [2022] **2023**, the maximum weekly benefit rate [under] **pursuant to** the Unemployment Compensation Law shall be [\$804.00] **\$830.00** per week.

(b) For periods of disability or family leave commencing on or after January 1, [2022] **2023**, the maximum weekly benefit rate for State Plan temporary disabilities and family leave insurance benefits [under] **pursuant to** the Temporary Disability Benefits Law shall be [\$993.00] **\$1,025.00** per week.

12:15-1.3 Taxable wage base under the Unemployment Compensation Law

(a) In accordance with the provisions [of] **at** N.J.S.A. 43:21-7(b)(3), the “wages” of any individual with respect to any one employer for the purpose of contributions [under] **pursuant to** the Unemployment Compensation Law shall include the first [\$39,800] **\$41,100** during the calendar year [2022] **2023**.

(b) In accordance with the provisions [of] **at** N.J.S.A. 43:21-7(b)(4), the “wages” of any individual with respect to any one employer for the purpose of contributions to the State Disability Benefits Fund, including the “Family Temporary Disability Leave Account,” shall include the first [\$151,900] **\$156,800** during the calendar year [2022] **2023**.

12:15-1.4 Contribution rate of governmental entities and instrumentalities

(a) (No change.)

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [2022] **2023**.

12:15-1.5 Base week

In accordance with the provisions [of] **at** N.J.S.A. 43:21-19(c)(1) and (t)(3) and 43:21-27(h)(4), the base week amount shall be [\$240.00] **\$260.00** per week for calendar year [2022] **2023**.

12:15-1.6 Alternative earnings test

In accordance with the provisions [of] **at** N.J.S.A. 43:21-4(e)(4)(B) and 43:21-41(d)(2), in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility shall be [\$12,000] **\$13,000** for unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, [2022] **2023**.

(a)

DIVISION OF WORKERS' COMPENSATION 2023 Maximum Workers' Compensation Benefit Rates

Proposed Amendment: N.J.A.C. 12:235-1.6

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:1A-3(e), and 34:15-12(a).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-117.

Submit written comments by November 5, 2022, to:

David Fish, Executive Director
Office of Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development
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Trenton, New Jersey 08625-0110
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The agency proposal follows:

Summary

The proposed amendments at N.J.A.C. 12:235-1.6 would, pursuant to N.J.S.A. 34:15-12, establish the 2023 maximum workers' compensation benefit rates for temporary disability, permanent total disability, permanent partial disability, and dependency under the Workers' Compensation Law. The maximum benefit rate is set by statute at 75 percent of the average weekly wages earned by all employees covered by the unemployment compensation law (N.J.S.A. 34:15-12(a)).

As a 60-day comment period has been provided in this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments would ensure that payments to workers' compensation recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits.

Economic Impact

The proposed amendments would increase from \$1,065 to \$1,099, the weekly benefit rate received by individuals eligible for the maximum weekly benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency under the Workers' Compensation Law. The 2023 maximum benefit rate represents a 3.2 percent increase in the current maximum benefit rate.

Federal Standards Statement

The proposed amendments do not include any standards or requirements that exceed standards or requirements imposed by Federal law. The amendments adjust the maximum weekly workers' compensation benefit rate and is governed entirely by State law; specifically, the New Jersey Workers' Compensation Act, N.J.S.A. 34:15-1 et seq. As a result, an explanation or analysis of the proposed amendments pursuant to N.J.S.A. 52:14B-23 or N.J.A.C. 1:30-5.1 is not required.

Jobs Impact

The proposed amendments would have no impact on jobs in New Jersey. The Department of Labor and Workforce Development does not anticipate an increase or decrease in jobs as a result of the proposed amendments.

Agriculture Industry Impact

The proposed amendments would have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments would not impose any reporting, recordkeeping, or compliance requirements on small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments increase benefit rates to individuals. Thus, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments would not evoke a change in the average costs associated with housing, nor on the affordability of housing in the State. The basis for this finding is that the proposed amendments pertain to the statutorily mandated annual adjustment to the maximum workers' compensation benefit rates and do not pertain to housing.

Smart Growth Development Impact Analysis

The proposed amendments would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed amendments pertain to the statutorily mandated annual adjustment to the maximum workers' compensation