

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)
Act 1 of 1936 (Ex. Sess.)

421.28a Preservation of unused credit weeks or benefit entitlement during period of continuous involuntary disability; request; written statement from physician; copies; extension of benefit year; payment of benefits; “continuous disability” defined; inability to establish benefit year; cessation of entitlement to benefits; applicability; dissemination of information to interested parties; date of request.

Sec. 28a. (1) For benefit years beginning before the conversion date prescribed in section 75, and notwithstanding any other provision of this act, an unemployed individual who has a benefit year in effect and who has not exhausted benefit entitlement may have unused credit weeks preserved during a period of continuous involuntary disability if a written request from the individual to preserve the unused credit weeks is received by the commission within 90 days after the commencement of the period of disability, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written request due to a medical inability, within 90 days after the end of that medical inability. For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding any other provision of this act, an unemployed individual who has a benefit year in effect and who has not exhausted benefit entitlement may have unused benefit entitlement preserved during a period of continuous involuntary disability if a written request from the individual to preserve the unused benefit entitlement is received by the commission within 90 days after the commencement of the period of disability, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written request due to a medical inability, within 90 days after the end of that medical inability.

(2) For benefit years beginning before the conversion date prescribed in section 75, unused credit weeks shall not be preserved pursuant to this section unless the commission receives a written statement from the individual's physician within 90 days after the commencement of the disability, within 90 days after the individual is advised of his or her rights by the commission, or if the individual is unable to submit the written statement due to a medical inability, within 90 days after the end of that medical inability the commission receives the written statement from the individual's physician. The written statement from the individual's physician shall certify all of the following:

(a) The nature of the injury, illness, or hospitalization.

(b) That based upon the examination of the physician, the individual is not able and available to perform full-time work as described in section 28(1)(c).

(c) The probable duration of the injury, illness, or hospitalization.

For benefit years beginning after the conversion date prescribed in section 75, unused benefit entitlement shall not be preserved pursuant to this section unless the commission receives a written statement from the individual's physician within 90 days after the commencement of the disability, within 90 days after the individual is advised of his or her rights by the commission, or if the individual is unable to submit the written statement due to a medical inability, within 90 days after the end of that medical inability the commission receives the written statement from the individual's physician. The written statement from the individual's physician shall certify all of the following:

(a) The nature of the injury, illness, or hospitalization.

(b) That based upon the examination of the physician, the individual is not able and available to perform full-time work as described in section 28(1)(c).

(c) The probable duration of the injury, illness, or hospitalization.

(3) The commission immediately shall provide a copy of the statement required by subsection (2) to the individual's last employer and all base period employers.

(4) For benefit years beginning before the conversion date as prescribed in section 75, an individual who has unused credit weeks preserved pursuant to this section shall receive an extension of his or her benefit year equal in weeks to the number of weeks the period of disability continued during the benefit year. The extension shall begin with the week after the week in which the disability terminated. Benefits may be paid for weeks of unemployment after the period of disability if the individual is eligible and qualified but benefits shall not be payable under this section for any week that commences more than 156 weeks after the first week of the benefit year. For benefit years beginning after the conversion date prescribed in section 75, an individual who has unused benefit entitlement preserved pursuant to this section shall receive an extension of his or her benefit year equal in weeks to the number of weeks the period of disability continued during the benefit year. The extension shall begin with the week after the week in which the disability terminated. Benefits may be paid for weeks of unemployment after the period of disability if the individual is eligible and qualified but benefits shall not be payable under this section for any week that commences more than 156

weeks after the first week of the benefit year.

(5) As used in this section, a period of "continuous disability" means a period continuing for more than 14 consecutive days during which an unemployed individual is not able and available to perform full-time work, as described in section 28(1)(c), due to injury, illness, or hospitalization.

(6) For benefit years beginning before the conversion date prescribed in section 75, an unemployed individual who has been unable to establish a benefit year solely due to a period of continuous disability may preserve all credit weeks earned by the individual in the 52 week period preceding the individual's first week of unemployment, as defined in section 48, caused by the disability. However, credit weeks may be preserved if the commission receives a written request and a physician's statement, as described in subsections (1) and (2) within 90 days after the commencement of the unemployment, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written statement and request due to a medical inability, within 90 days after the end of that medical inability. The individual's benefit year shall begin the first week the individual was both unemployed and disabled, and the benefit year shall be extended pursuant to subsection (4). For benefit years beginning after the conversion date prescribed in section 75, an unemployed individual who has been unable to establish a benefit year solely due to an inability to file a claim because of a period of continuous disability may preserve all unused benefit entitlement in the base period preceding the individual's first week of unemployment, as defined in section 48, caused by the disability. However, benefit entitlement may be preserved if the commission receives a written request and a physician's statement, as described in subsections (1) and (2) within 90 days after the commencement of the unemployment, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written statement and request due to a medical inability, within 90 days after the end of that medical inability. The individual's benefit year shall begin the first week the individual was both unemployed and disabled, and the benefit year shall be extended pursuant to subsection (4).

(7) For benefit years beginning before the conversion date prescribed in section 75, if an individual has sufficient credit weeks to establish a new benefit year under section 46 after the termination of the period of continuous disability, and is otherwise eligible and qualified for benefits, the individual shall cease to be entitled to benefits under this section. For benefit years beginning after the conversion date prescribed in section 75, if an individual has sufficient base period wages to establish a new benefit year under section 46 after the termination of the period of continuous disability, and is otherwise eligible and qualified for benefits, the individual shall cease to be entitled to benefits under this section.

(8) This section shall apply to all benefit years that commence after the effective date of this section.

(9) The commission shall disseminate information on this section to potential interested parties including the legal profession, employers, and unions.

(10) For benefit years beginning before the conversion date prescribed in section 75, and notwithstanding any other provision of this section, a request for preservation of credit weeks must be made within 3 years after the date the disability began. For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding any other provision of this section, a request for preservation of benefit entitlement must be made within 3 years after the date the disability began.

History: Add. 1979, Act 28, Imd. Eff. June 14, 1979;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.