**12 DEPARTMENT OF LABOR**

**172 MAINE UNEMPLOYMENT INSURANCE COMMISSION**

**Chapter 19: OTHER REMUNERATION**

**1. Definitions**

For purposes of subsection 3 of section 1191 and of subsection 5 of section 1193 of the *Employment Security Law*, the following terms shall have the following meanings:

A. "Dismissal wages", "severance pay" and "terminal pay" means a payment made to an individual who has been dismissed by an employer, which payment is in addition to any wages which that individual has earned through the performance of services. A payment made to an individual as an incentive to either resign, retire, or accept an employer-initiated separation will be treated in the same manner as "terminal pay."

B. "Wages in lieu of notice" means a payment made to an employee who is being terminated without prior notice.

C. "Vacation pay" means payment from an employer for a period during which the individual is away from work and not required to perform services, regardless of how the employer identifies it. Its accrual is normally based on a set number of days or weeks for each year of employment.

D. "Holiday pay" means payment for one or more days that the employer has determined will be non-work days due to a special circumstance or event.

**2. Period of Application**

The types of remuneration which are defined in section 1 shall be allocated to the following periods of unemployment.

A. "Dismissal wages," "severance pay," ~~and~~ "terminal pay," and wages in lieu of notice will be applied to the week in which they are paid.

B. "Vacation pay" considered disqualifying under 26 M.R.S. Section 1193(5)(A-1) will be allocated to a period following separation which would be equivalent to the claimant's normal wages.

C. "Holiday pay" shall be allocated to the week in which the holiday occurs, regardless of when the "holiday pay" is paid.

D. If a claimant receives more than one of the types of remuneration defined in section 1 of this chapter during the same week, these types of remuneration shall be applied simultaneously to the week in which they are received.

**3,** *[Not in use]*

**4. Supplemental Unemployment Benefits**

Supplemental unemployment benefits are payments which are made as part of a written plan established by and maintained by an employer solely for the purpose of supplementing the unemployment compensation benefits of former employees. Such payments are in addition to unemployment compensation benefits which are paid under state or federal unemployment compensation laws, and are not "earnings" or "wages"' under subsection 3 of section 1191 or remuneration, under subsection 5 of section 1193 of the *Employment Security Law*.

**5. Bonus Payments**

Bonus payments are a form of wages under 26 M.R.S. Section 1043(19) and are normally paid for extraordinary work or as an inducement for increased performance. Bonus payments may be calculated and paid based on prior performance levels, normal wages, profit levels, or any other method. For purposes of subsection 5 of section 1193 of the *Employment Security Law*, "bonus payments" shall not be considered remuneration due to an individual as listed in that subsection. Bonus payments shall be considered earnings under subsection 3 of section 1191 with respect to the week or weeks in which the bonus payment was earned.

**6. Back Pay Award**

If a payment, which is awarded or authorized by the National Labor Relations Board, a court or any other administrative agency of government for any settlement of a dispute, is for, or equivalent to, wages for a specific period of time, then that payment will be considered to be wages with respect to the week or weeks which are covered by such award, provided that the payment is actually received by the claimant. If the claimant was paid benefits for any week or weeks covered by the award, then the deputy may reconsider the benefit payment for such week or weeks in accordance with subsection 10 of section 1194 of the *Employment Security Law*.

STATUTORY AUTHORITY: M.R.S. Section 1082, Subsection 2.

EFFECTIVE DATE:

October 2, 1989 – filing 89-396 as “Rules Governing the Administration of the Employment Security Law”

AMENDED:

May 30, 2000 - filing 2000-223 as “Other Remuneration”

NON-SUBSTANTIVE CORRECTIONS:

August 29, 2001 - Sec. 2 first sentence, heading for Sec. 4, Sec. 5 first sentence

AMENDED:

December 9, 2017 - filing 2017-191