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1. UNEMPLOYMENT COMPENSATION ACT—REQUIRED TO BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES—SECTIONS 1345-1 TO 1346-4 G. C.
2. ADDITIONAL ALLOWANCES TO DEPENDENT CHILDREN—PAYABLE ON AND AFTER AUGUST 22, 1949 TO UNEMPLOYMENT COMPENSATION BENEFICIARIES WHO DREW UNEMPLOYMENT BENEFITS ON THAT DATE—SECTION 1345-8 SUBDIVISION e G. C.
3. PERSON WHO HAS VALID CLAIM—PENDING AUGUST 22, 1949—ENTITLED TO UNEMPLOYMENT BENEFITS—ADDITIONAL ALLOWANCE FOR DEPENDENT CHILDREN ON AND AFTER THAT DATE.

## SYLLABUS:

1. The provisions of the Unemployment Compensation Act, Sections 1345-1 to 1346-4, inclusive, General Code, are by express statutory provision required to be liberally construed to accomplish the purposes of the Act.

2. The additional allowances for dependent children provided for in Section 1345-8, subsection e, General Code, are payable on and after August 22, 1949, to unemployment compensation beneficiaries who are drawing unemployment benefits on said date.

3. A person whose claim for unemployment benefits is pending on August 22, 1949, is also entitled to the additional allowance for dependent children on and after said date, provided that his claim is determined to be valid.

Columbus, Ohio, August 23, 1949

Hon. Frank J. Collopy, Administrator,  
Bureau of Unemployment Compensation  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Amended Senate Bill No. 142 will become effective August 22, 1949. Among its provisions is a new subsection providing for additional allowances for dependent children. This new subsection is Section 1345-8-e, General Code.

“We would appreciate your opinion as to whether or not these allowances are payable on and after the effective date of the amendment, to claimants who are drawing benefits under the existing law.

“As an illustration, let us assume that a person files a claim for benefits which is allowed with a benefit year commencing July 5, 1949, and after a waiting period of two weeks, such person draws benefits commencing with the week of July 19, 1949. Would such claimant be entitled to the allowances for dependent children on and after August 22, 1949?”

The answer to your question involves a consideration of the provisions of law relating to unemployment compensation with respect to the additional allowance for dependent children and I shall confine myself to answering that question. Section 1345-8, General Code, was amended by the recent general assembly, the amended form becoming effective August 22, 1949. By virtue of this amendment subsection e was added at the end of the section and although other changes were made in this section we are here concerned primarily with the language contained in the final paragraph which I shall refer to as subsection e. The provisions of subsection e are as follows:

“e. In addition to the benefit amount payable under subsection b of this section with respect to any week of total or partial unemployment, each eligible and qualified individual shall receive, with respect to such week, the sum of two and one-half dollars (\$2.50) for each of his dependent children, but in no event shall such additional allowance exceed five dollars (\$5.00) for any one week. This additional allowance shall not be counted in determining the total benefits payable under subsection d of this section. For the purpose of this provision, a dependent child means any child or stepchild of the individual in question who, at the beginning of such individual's current benefit year, was under eighteen years of age and was being wholly or chiefly supported by such individual. If both a husband and wife qualify for benefits with respect to the same week, only one of them shall be entitled to the additional allowance provided herein. Notwithstanding the provisions of section 1345-4 (c) (I) of the General Code, no additional sums payable hereunder shall be charged against the account of any employer.”

The above new subsection is a part of Amended Senate Bill No. 142, 98th General Assembly, which was approved May 23, 1949, and as heretofore stated effective August 22, 1949.

You ask whether or not the provisions of this subsection are applicable in the case of claimants found to be entitled to receive unemployment benefits and who actually began receiving such benefits under the law as it existed prior to the effective date of Amended Senate Bill No. 142, *supra*.

I wish at the outset to invite your attention to another provision contained in Amended Senate Bill No. 142, *supra*, which specifically provides that the provisions of the unemployment compensation law shall be liberally construed to accomplish the purposes thereof. This is designated as Section 1345-33, General Code, and provides as follows:

“Sections 1345-1 through 1346-4, inclusive, of the General Code, shall be liberally construed to accomplish the purposes thereof.”

A substantially similar provision was contained in the prior form of this section.

What are the purposes of the unemployment law? The language of the section just above quoted is in mandatory terms and establishes a rule of construction which is applicable to the entire unemployment compensation law. To me, it appears that the all-important purpose of this law is to alleviate human distress, misery and suffering incident to unemployment resulting from the loss of gainful employment through no fault of the worker.

With respect to the meaning of strict or liberal interpretation of statutes, Sutherland Statutory Construction, Third Edition, Vol. 3 at page 41, being Section 5505, explains the rule as follows:

“A large number of the decisions have come to recognize that a construction is preferred which is either strict or liberal with reference to the purposes and objects of the statute. This makes for the soundest analysis of the problem of liberal and strict construction. Thereunder, a statute is liberally construed when the letter of the statute is extended to include matters within the spirit or purpose of the statute; and a statute is strictly construed when the letter of the statute is narrowed to exclude matters, which if included would defeat the policy of the legislation and lend itself to absurdity. \* \* \*” (Citing *State v. Baker*, 88 O. S. 165.)

See also *Dennis v. Smith*, 125 O. S. 120, 125, where it is noted :

“In applying the rule of liberal construction, all reasonable doubts are to be resolved in favor of the statute being applicable to the particular case.”

I interpret the above to mean that all reasonable doubts should be resolved in favor of recipients of benefits under the unemployment compensation act. In this connection, I should like to refer to the discussion of the interpretation of unemployment compensation statutes also found in *Sutherland*, supra, Vol. 3, pages 439-441, Section 7211, reading as follows :

“The statutes providing for unemployment compensation represent a relatively new advancement in this country, and were modeled to a great extent after the English Unemployment Insurance Act enacted by Parliament in 1920. Just as has happened under the workmen’s compensation statutes, a great many questions promise to arise in the interpretation of this legislation. Unemployment compensation statutes were enacted for the purpose of relieving harsh social consequences resulting from unemployment, and if these statutes are to accomplish their purpose they must be given a liberal interpretation.

“\* \* \* since the statutes are aimed at the alleviation of social conditions which were not contemplated by common-law tort law, the courts should adhere to a broad policy of extending the operation of the act to all cases where its objectives will be promoted. Likewise the exceptions or exemptions in the unemployment compensation acts should be limited to conform with the same principle.”

Let me now invite your attention to what I consider to be significant language contained in subsection e of Section 1345-8, supra. It recognizes a factor not set forth in the pre-existing law in determining allowances payable to an unemployed person, namely, the number of dependent children, and which provides that “each eligible and qualified individual” shall receive a specified amount for dependent children, which amount shall be “in addition to the benefit amount” payable under another subsection of Section 1345-8, supra. This dependency allowance is fixed at \$2.50 a week for each dependent child with a maximum such allowance of \$5.00 a week. However, your question does not go into the amount but rather the right of the claimant to receive the amount and no further consideration need be given to this aspect of the question.

It is significant to note that this allowance for dependents is a fixed sum and is not dependent on whether the claimant was totally or partially unemployed, nor is it on the size of the benefit amount payable under the unemployment compensation law.

It is specifically provided that the allowance for dependents shall not be counted in determining the total benefits payable to a recipient under the unemployment compensation act. I attach great significance to the language used in subsection e of Section 1345-8, *supra*, wherein it provides that the right to the additional allowance accrues "with respect to any week of total or partial unemployment." Nowhere do I find any indication or suggestion that this additional allowance should be limited to persons becoming unemployed or eligible for unemployment benefits after the effective date of Amended Senate Bill No. 142, *supra*. As I see it, the clearly expressed intention of the general assembly is that from and after the effective date of the act such additional allowance should be considered and made effective.

It may be argued that Section 26, General Code, which provides in substance that the amendment or repeal of statutes shall not affect pending actions, prosecutions or proceedings, is applicable here. I cannot concur in such a view and I wish to point out that although the language of subsection e, *supra*, is included within and added to Section 1345-8, *supra*, yet all of the provisions of this subsection are new and the allowance provided for did not exist prior to the enactment of Amended Senate Bill No. 142, *supra*. I have examined many cases construing Section 26, *supra*, and so far as I have been able to ascertain this section was applied, where it was applied, for the purpose of preserving or protecting a right which theretofore had been given to an individual and the courts, by virtue of said section, were uniform in holding that such right could not be taken away by means of amendment or repeal of statute.

Further light on this question may be found in Sutherland, *supra*, Vol. 2, page 228, Section 3103, wherein it is stated:

"Although the cases identify statutes as prospective and retrospective, the statutes in fact are seldom divisible in this fashion. Many statutes are both prospective and retrospective. Frequently, the classification of the statute reflects a desire to restrictively limit its application and is not a necessary distinction required by the legislative intent. The terms retrospective and prospective provide a conclusion for judgments independently reached."

By the express terms of Section 1345-33, supra, as quoted above, such an arbitrary classification having for its purpose the limiting of the application of the unemployment compensation law is forbidden.

Your question asks whether on and after August 22, 1949, you shall include the allowance for dependents along with the benefit amount payable to the claimants described in your letter. As I understand it, the payments which you contemplate will in fact be prospective, that is, they will be made on and after August 22, 1949, and are with reference to weeks of total or partial unemployment which in fact occur after the said effective date of Amended Senate Bill No. 142, supra.

Let me also call your attention to another provision of the unemployment compensation law whereby the general assembly reserved the right to amend or repeal this law at any time. Section 1345-30 provides as follows:

“All the rights, privileges, or immunities conferred by this act, or by acts done pursuant thereto, shall exist subject to the power of the general assembly to amend or repeal this act at any time.”

By way of analogy, permit me to call your attention to benefits paid under the old age pension law. Under the provisions of Section 1359-3, supra, the amounts payable to beneficiaries have been increased from time to time and we are informed that the increases provided were in all cases made applicable, both to those who prior to the effective date of the amendment authorizing the increase had qualified for such benefit as well as to new applicants applying after the effective date of the amendment. So far as we can ascertain the amended statutes made no express provision for exemption from the provisions of Section 26, supra, but notwithstanding in each case have been given the interpretation above set forth.

It is, of course, readily apparent that what has been said here with reference to persons who are drawing benefits under the law as it existed prior to August 22, 1940, is applicable with equal force to claims filed prior to said date and allowed thereafter, assuming of course that such claims are found by you to be valid in all respects.

For the reasons above set forth, it is my opinion that:

1. The provisions of the Unemployment Compensation Act, Sections 1345-1 to 1346-4, inclusive, General Code, are by express statutory

provision required to be liberally construed to accomplish the purposes of the Act.

2. The additional allowances for dependent children provided for in Section 1345-8, subsection e, General Code, are payable on and after August 22, 1949, to unemployment compensation beneficiaries who are drawing unemployment benefits on said date.

3. A person whose claim for unemployment benefits is pending on August 22, 1949, is also entitled to the additional allowance for dependent children on and after said date, provided that his claim is determined to be valid.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.