

Mr. Barclay Craighead, Chairman
Unemployment Compensation
Commission
Helena, Montana

Dear Mr. Craighead:

You have submitted for my opinion the following question:

" . . . Has the Unemployment Compensation Commission of Montana, the power and authority under the law of the State of Montana to enter into an agreement, copy of which is hereto attached, called an 'Interstate Arrangement for the Determination and Payment of Interstate Claims', whereby the Benefit Fund of the Unemployment Compensation Commission will be used to pay benefits to workers whose wage credits and earnings were acquired in another state, and the amount of such benefit payments charged up in account and billed to such other State at the end of each quarter, with a like arrangement with respect to Montana workers filing and claiming benefits in another State?"

Opinion No. 97

Unemployment Compensation Commission—Reciprocal Agreements—Benefit Payments—Benefit Fund.

Held: The Unemployment Compensation Commission may enter into reciprocal agreements with other states whereby the Benefit Fund of the Unemployment Compensation Commission will be used to pay benefits to workers whose wage credits and earnings were required in another state and the amount of such benefit payments charged in an account and billed to such other state at the end of each quarter, with a like arrangement with respect to Montana workers filing and claiming benefits in another state, provided such other state agency or agency of the federal government has agreed to reimburse the compensation fund for such portion of benefits so paid.

January 20, 1948

You call my attention to Official Opinion No. 265, Volume 20, Report and Official Opinions of the Attorney General, dated December 15, 1944.

Under Official Opinion No. 265, referred to above, the question considered was, "Has the Unemployment Compensation Commission of Montana the power and authority under the laws of Montana to enter into a binding agreement with other states of the United States, whereby wage credits and potential rights to benefits of workers determined and established under the Montana law might be combined with such rights established in other states as to establish a base period in this state or in another state, thus giving the commission authority to pay benefits in proportion to the amount of credits in this state?"

In that opinion this office advised your commission that under the Unemployment Compensation Act as then in force, Chapter 137, Laws of 1937, and specifically in view of the provisions of Section 11(j), authority existed in the Montana Commission to provide "for reciprocal benefit agree-

ments only in case the employee works for the same employer." It was further stated in that opinion:

"Therefore, it is my opinion that under the provisions of the Unemployment Compensation Law as it now exists the commission does not have the authority to enter into reciprocal agreements with any other state for the payment of benefits, other than under the circumstances as specifically set forth in subsection (j) of Section 11 of the said act."

However, since that opinion, the legislative assembly in Section 3, Chapter 190, Laws of 1945, amended subsection (j) of Section 11, and as amended it now provides, in part, as follows:

"The commission is also authorized to enter into arrangements with the appropriate agencies of the other states or of the federal government (i) whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for benefit purposes; provided such other state agency or agency of the federal government has agreed to reimburse the unemployment compensation fund for such portion of benefits paid under this act upon the basis of such wages or services as the commission finds will be fair and reasonable as to all affected interests; and (ii) whereby the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws, with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the commission finds will be fair and reasonable to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of this act. The commission is hereby authorized to make to other state or federal agencies and receive from such other state or federal agencies,

reimbursement from or to the unemployment compensation fund, in accordance with arrangements made pursuant to this section."

In view of Section 3, Chapter 190, Laws of 1945, it is my opinion that the Commission may enter into reciprocal agreements with other states whereby the Benefit Fund of the Unemployment Compensation Commission will be used to pay benefits to workers whose wage credits and earnings were acquired in another state, and the amount of such benefit payments charged in an account and billed to such other state at the end of each quarter, with a like arrangement with respect to Montana workers filing and claiming benefits in another state, provided such other state agency or agency of the federal government has agreed to reimburse the compensation fund for such portion of benefits so paid.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General