

## 2012 Kansas Statutes

**44-704. Benefits.** (a) *Payment of benefits.* All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of labor, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in subsections (i)(3)(E) and (i)(3)(F) of K.S.A. 44-703, and amendments thereto, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act except as provided in subsection (e) of K.S.A. 44-705 and subsection (e)(2) of K.S.A. 44-711, and amendments thereto.

(b) *Determined weekly benefit amount.* An individual's determined weekly benefit amount shall be an amount equal to 4.25% of the individual's total wages for insured work paid during that calendar quarter of the individual's base period in which such total wages were highest, subject to the following limitations:

(1) If an individual's determined weekly benefit amount is less than the minimum weekly benefit amount, it shall be raised to such minimum weekly benefit amount;

(2) if the individual's determined weekly benefit amount is more than the maximum weekly benefit amount, it shall be reduced to the maximum weekly benefit amount; and

(3) if the individual's determined weekly benefit amount is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

(c) *Maximum weekly benefit amount.* On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 60% of the average weekly wages paid to employees in insured work during the previous calendar year and shall prior to that date announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of midmonth employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the twelve-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent twelve-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.

(d) *Minimum weekly benefit amount.* The minimum weekly benefit amount payable to any individual shall be 25% of the maximum weekly benefit calculated in accordance with subsection (c) and shall be announced by the secretary in conjunction with the published announcement of the maximum weekly benefit, also as provided in subsection (c). The minimum weekly benefit amount so determined and announced for the twelve-month period beginning July 1 of each year shall apply only to those claims which establish a benefit year filed within that twelve-month period and shall apply through the benefit year of such claims notwithstanding a change in such amount in a subsequent twelve-month period. If the minimum weekly benefit amount is not a multiple of \$1 it shall be reduced to the next lower multiple of \$1.

(e) *Weekly benefit payable.* Each eligible individual who is unemployed with respect to any week, except as to final payment, shall be paid with respect to such week a benefit in an amount equal to such individual's determined weekly benefit amount, less that part of the wage, if any, payable to such individual with respect to such week which is in excess of the amount which is equal to 25% of such individual's determined weekly benefit amount and if the resulting amount is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

(1) For the purposes of this section, remuneration received under the following circumstances shall be construed as wages:

(A) Vacation pay that was attributable to a week that the individual claimed benefits while work was temporarily interrupted;

(B) holiday pay that was payable with no condition of attendance on other regularly scheduled day or days; and

(C) severance pay, if paid as scheduled, and all other employment benefits within the employer's control, as defined in subsection (e)(3), if continued as though the severance had not occurred, except as set out in subsection (e)(2)(D).

(2) For the purposes of this section, remuneration received under the following circumstances shall not be construed as wages:

(A) Remuneration received for services performed on a public assistance work project;

(B) vacation pay, except as set out in subsection (e)(1)(A) above;

(C) holiday pay that was not payable unless the individual complied with a condition of attendance on another regularly scheduled day or days;

(D) severance pay, in lieu of notice, under the provisions of public law 100-379, the federal worker adjustment and retraining notification act (29 U.S.C.A. §§ 2101 through 2109);

(E) all other severance pay, separation pay, bonuses, wages in lieu of notice or remuneration of a similar nature that is payable after the severance of the employment relationship, except as set out in subsection (e)(1)(C); and

(F) moneys received as federal social security payments.

(3) For the purposes of this subsection (e), "employment benefits within the employer's control" means benefits offered by the employer to employees which are employee benefit plans as defined by section 3 of the federal employee retirement income security act of 1974, as amended, (29 U.S.C. § 1002) and which the employer has the option to continue to provide to the employee after the last day that the employee worked for that employer.

(f) *Duration of benefits.* Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of 26 times such individual's weekly benefit amount, or 1/3 of such individual's wages for insured work paid during such individual's base period. Such total amount of benefits, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.

(g) For the purposes of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has satisfied the conditions of subsection (h) of K.S.A. 44-703, and amendments thereto, with respect to becoming an employer.

**History:** L. 1937, ch. 255, § 4; L. 1939, ch. 214, § 2; L. 1941, ch. 264, § 2; L. 1945, ch. 220, § 2; L. 1947, ch. 291,

§ 2; L. 1949, ch. 288, § 3; L. 1951, ch. 307, § 2; L. 1955, ch. 251, § 2; L. 1957, ch. 295, § 1; L. 1959, ch. 223, § 1; L. 1970, ch. 191, § 2; L. 1971, ch. 180, § 2; L. 1972, ch. 192, § 1; L. 1973, ch. 205, § 2; L. 1976, ch. 226, § 2; L. 1976, ch. 370, § 57; L. 1977, ch. 181, § 2; L. 1979, ch. 160, § 2; L. 1983, ch. 169, § 2; L. 1984, ch. 183, § 2; L. 1985, ch. 176, § 1; L. 1986, ch. 191, § 1; L. 1991, ch. 145, § 1; L. 1993, ch. 251, § 1; L. 1994, ch. 171, § 1; L. 2003, ch. 96, § 1; L. 2004, ch. 179, § 54; July 1.