**Section 2765.334 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act**

Pursuant to Section 614 of the Act, an individual shall be ineligible, on the basis of wages earned during his base period unless he was either lawfully admitted to this country for permanent residence or otherwise is permanently residing in this country under color of law. Because this ineligibility could effect some, but not all, of the individual's base period wages, it is possible that the individual could be held ineligible under Section 614 of the Act but still qualify for benefits based on base period wages paid after he was either lawfully admitted to this country for permanent residence or otherwise is permanently residing in this county under color of law. In determining whether an employer is the individual's chargeable employer under this Subpart, no day on which the individual was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law will be counted in determining whether the individual was employed by the employer for at least 30 days.

a) Example: The individual applied for and was granted permanent resident status on July 1, 1988. He worked for Company A, a liable, contributing employer, continuously from January 1, 1988, to the date of his separation on May 1, 1989. His base period began on January 1, 1988. Under Section 614 of the Act, the individual is not eligible for benefits based on the wages paid prior to July 1, 1988, because he was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law during this time. However, he might still be eligible for benefits based on his earnings during the third and fourth quarters of 1988. Company A will be the individual's chargeable employer under this Subpart because, even not counting the days of employment from January 1, 1988 to June 30, 1988, the individual was employed by Company A for 30 days from the beginning of his base period to the beginning of his claim for unemployment insurance benefits.

b) Example: The individual applied for and was granted permanent resident status on July 1, 1992. He worked full time for Company A, a liable, contributing employer, continuously from January 1, 1988, to the date of his separation on April 30, 1993. He filed his new benefit year claim, beginning May 2, 1993. His base period began on January 1, 1992. Under Section 614 of the Act, the individual is not eligible for benefits based on the wages paid prior to July 1, 1992, because he was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law during this time. However, he is eligible for benefits based on his earnings during the third and fourth quarters of 1992, and he is paid benefits from May 2, 1993 through May 29, 1993. Company A will be the individual's chargeable employer under this Subpart because, even not counting the days of employment from January 1, 1988 to June 30, 1992, this individual performed services for Company A for 30 days from the beginning of his base period to the beginning of the week with respect to which he files a claim for unemployment insurance benefits.

c) Example: The individual applied for and was granted permanent resident status on July 1, 1992. He worked full time for Company A, a liable, contributing employer, continuously from January 1, 1988, to the date of his separation on June 30, 1992. He then worked for Company B for the period from July 1, 1992 to the date of his separation on March 15, 1993. He then returned to work for Company A and performed services for this employer for five weeks (25 days). He filed his new benefit year claim, beginning May 2, 1993. His base period began on January 1, 1992. Under Section 614 of the Act, the individual is not eligible for benefits based on the wages paid prior to July 1, 1992, because he was not either lawfully admitted to this country for permanent residence or otherwise was permanently residing in this country under color of law during this time. However, he is eligible for benefits based on his earnings during the third and fourth quarters of 1992, and he is paid benefits from May 2, 1993 through May 29, 1993. Company B will be the individual's chargeable employer under this Subpart because this individual performed services for Company B for 30 days from the beginning of his base period to the beginning of the week with respect to which he files a claim for unemployment insurance benefits. Company A cannot be the chargeable employer with respect to these weeks because the individual had not performed services for it for 30 days since the days on which he performed services prior to July 1, 1992 cannot be counted in determining whether the individual performed services for 30 days. However, if this individual would return to work for Company A and perform services for an additional 5 days, Company A would be the chargeable employer for any weeks which begin after the individual performed services for these additional days.

(Source: Amended at 17 Ill. Reg. 614, effective January 4, 1993)