

(b) Failure to comply with this requirement may subject the employer to the penalties prescribed in N.J.S.A. 43:21-16(c). However, it shall not relieve the claimant of the responsibility of reporting to file an unemployment claim.

Amended by R.2003 d.276, effective July 7, 2003.
See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).

Rewrote (a); in (b), deleted "in person to the unemployment claims office" in the second sentence.

12:17-3.2 Request for separation or wage information

(a) Upon request by the Division for information regarding wages or the reason for separation from any worker from employment, the employer shall, within 10 calendar days after the date of mailing of the form requesting information, complete and return it to the appropriate office. The response shall be considered timely if it is postmarked or received by the Division within 10 calendar days after the date of mailing.

(b) Failure to comply with any request for information shall subject the employer to the penalties prescribed in N.J.S.A. 43:21-16(b)(1).

(c) If an employer fails to respond to a request for wage information within 10 calendar days after the mailing date, the Division shall rely on information from other sources, including an affidavit from the claimant certifying wages and time worked. If available, the affidavit should be supported by evidence of wages and employment including, but not limited to, payroll stubs, W-2 forms, Federal or State income tax returns, copies of pay checks, etc.

1. An individual who claims or attempts to claim benefits through false or fraudulent representation shall be subject to disqualification under N.J.S.A. 43:21-5(g) and fines and the refund of benefits under N.J.S.A. 43:21-16.

(d) Whenever an initial monetary determination is based upon information other than that supplied by an employer because the employer failed to respond to the Division's request for information, the initial monetary determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to the employer's account because of benefits paid prior to the close of the calendar week following the receipt of the subsequent reply. The initial monetary determination shall be redetermined if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's subsequent reply shall be paid in accordance with the redetermination.

(e) Except in the event of fraud, no refund liability shall be incurred by the claimant for any overpaid benefits resulting from information supplied on the affidavit which were paid prior to the receipt of the employer's subsequent reply.

(f) A claimant will be liable to refund any overpaid amount resulting from receipt of benefits paid subsequent to the employer's reply which resulted in a redetermination of the initial monetary determination.

Amended by R.2003 d.276, effective July 7, 2003.
See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).

In (a), substituted "from employment," for "from an employment," preceding "the employer shall" and substituted "the appropriate office" for "the office that initiated the request" following "return it to".

12:17-3.3 Finality of benefit determinations

(a) After receiving wage and separation information, the Division shall make a determination regarding the claimant's eligibility for benefits which will be mailed to the claimant and employer. The benefit determination shall become final 10 days after the date of mailing or seven days after date of delivery unless an appeal is filed timely or late with good cause by the claimant or employer in accordance with N.J.A.C. 12:20-3.1.

(b) The Division may reconsider a final determination for the following reasons:

1. Fraud, misrepresentation or misconduct of a party;
2. Newly discovered evidence not ascertainable at the time of the initial benefit determination by the exercise of reasonable diligence and the making of proper inquiry which would probably alter the determination;
3. Obvious material mistake or error which requires correction;
4. To vacate a determination which is entered without legal right and is void; or
5. The correction of inadvertent, premature, or clearly erroneous action.

Amended by R.2003 d.276, effective July 7, 2003.
See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).
In (a), rewrote the second sentence.

12:17-3.4 Notice of failure to apply for or to accept work

(a) When any claimant fails to apply for, or to accept, work when offered by an employer, the employer shall, within 48 hours, complete Form BC-6 (Notice of Failure to Apply for, or to Accept, Suitable Work) setting forth the facts relating to the individual's failure to apply for, or to accept, work and forward it to the appropriate office. (See N.J.A.C. 12:17-11 Claims Adjudication—Refusal to Apply for or Accept Suitable Work.)

(b) Whenever an employer is notified by a One-Stop Career Center office that an individual has been referred to the employer for work, the employer shall, within 24 hours after the appointment, advise the latter office of the results of the referral.

Amended by R.2003 d.276, effective July 7, 2003.
See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).

In (a), substituted "appropriate" for "proper unemployment claims" preceding "office" in the first sentence, and rewrote the second sentence; in (b), substituted "a One-Stop Career Center" for "an employment service" following "is notified by" and substituted "latter" for "employment service" following "advise the".

12:17-3.5 Notice of unemployment due to mass separation

(a) For the purposes of this subchapter, the term "mass separation" means the separation of 25 or more employees in a single establishment (either permanently or for an indefinite period) at or about the same time and for the same reason, except where the separation or unemployment is due to a labor dispute.

(b) As soon as possible but not later than 48 hours prior to any mass separation, the employer shall file a notice thereof with the unemployment unit of the One-Stop Career Center located nearest the place of employment. Where the employer has no advance knowledge of the mass separation, such notice shall be filed within 24 hours after the mass separation occurs. Such notice shall contain the following information:

1. The name and address of the employer;
2. A statement of the cause of separation;
3. The number and job titles of employees affected;
4. The expected duration of the period of unemployment; and
5. Whether or not the employer will have sufficient employees to handle requests for wage information that may be issued by the Division.

(c) The employer shall provide the Division with information relating to payments made to affected employees for vacation, sick leave, pension, remuneration in lieu of notice and severance.

(d) Where a mass separation has not occurred but is threatened or likely to occur, the employer shall submit to the Division when requested such information as may be required.

(e) The employer shall deliver Form BC-10 (Instructions for Claiming Unemployment Benefits) to each employee at the time of mass separation.

(f) Employers that have completed the notification requirements under the Federal Worker Adjustment and Retraining Notification Act contained at 10 C.F.R. Part 639 and N.J.A.C. 12:40 shall be considered in compliance with (b) above.

Amended by R.2003 d.276, effective July 7, 2003.
See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).

In (a), deleted ", or with an expected duration of seven or more days" following "an indefinite period"; in (b), substituted "unit of the One-Stop Career Center" for "claims office" in the first sentence of the introductory paragraph and substituted "the Division" for "unemployment claims offices" in 5.

12:17-3.6 Notice of unemployment due to labor dispute

In case of unemployment due to a labor dispute, the employer shall file a notice immediately with the unemployment unit of the One-Stop Career Center located nearest the place of employment. Such notice shall include information concerning the existence and nature of a labor dispute, the approximate number of individuals involved and the name and address of the bargaining unit. See N.J.A.C. 12:17-12.2.

Amended by R.2003 d.276, effective July 7, 2003.

See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).

Substituted "unit of the One-Stop Career Center" for "claims office" in the first sentence.

12:17-3.7 Notice of temporary separation from work

(a) Whenever an individual is temporarily separated for lack of work, the employer, upon request by the Division, shall provide the expected duration of the individual's period of unemployment, the reason for separation, and the date on which the employer expects the individual to return to work.

(b) If the period of temporary unemployment is for eight weeks or less and the employer has furnished the information required in (a) above, the individual shall be entitled to benefits provided all of the conditions of benefit eligibility are met. However, the individual will not be required to actively seek work during this period.

Amended by R.2003 d.276, effective July 7, 2003.

See: 35 N.J.R. 1527(a), 35 N.J.R. 2874(b).

In (a), substituted "Division" for "unemployment claims office" preceding ", shall provide".

SUBCHAPTER 4. REPORTING REQUIREMENTS TO CLAIM UNEMPLOYMENT BENEFITS AND TO REGISTER FOR WORK SEARCH ACTIVITIES

12:17-4.1 General reporting requirements

(a) Individuals shall report as directed by the Division as to date, time, and place in person, by telephone, by mail, via an Internet application or as the Division may otherwise prescribe.

(b) An individual who fails to report as directed will be ineligible for benefits unless, pursuant to a fact-finding hearing, it is determined that there is "good cause" for failing to comply. For the purposes of this subchapter, "good cause" means any situation which was substantial and prevented the claimant from reporting as required by the Division.