

(e) 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.

(f) The employer is also required to deliver Form BC-10 (prescribed in Section 20.01) to each worker at the time of mass separation.

As amended, R.1984 d.516, eff. November 5, 1984.

See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

Deleted "employment service" and substituted "unemployment insurance claims".

12:17-1.5 Notice of unemployment due to labor dispute

In case of unemployment due to a labor dispute, the employer or employing unit shall file immediately with the local unemployment insurance claims office nearest the place of employment a notice setting forth the existence of such dispute, the approximate number of workers involved, the name and address of the bargaining agency if any, together with a brief statement of the nature of the dispute.

As amended, R.1984 d.516, eff. November 5, 1984.

See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

Deleted "employment service" and substituted "unemployment insurance claims".

12:17-1.6 Notice of temporary separation from work

(a) Whenever a worker is temporarily separated from his work through no fault of his own or not of his own accord, the employer, upon request by the local unemployment insurance claims office, shall verify the expected duration of the worker's period of unemployment, the reason for his separation, and the date on which the employer expects the worker to return to his work.

(b) If the period of temporary unemployment is for four weeks or less and the employer has furnished the information required in subsection (a) of this Section, the worker will be entitled to benefits if he meets all of the requirements of subsections (a), (b), (c), (d) and (e) of N.J.S.A. 43:21-4, except that the employer's verification that he expects the worker to return to work within the four-week period will dispense with the requirement of actively seeking work during such period.

As amended, R.1984 d.516, eff. November 5, 1984.

See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

Deleted "employment service" and substituted "unemployment insurance claims".

SUBCHAPTER 2. REGISTRATION FOR WORK AND CLAIM FOR BENEFITS

12:17-2.1 Claims and registration

(a) Each individual who desires to claim benefits shall report to an unemployment insurance claims office and file

a claim during the week for which he or she desires to claim the benefits and not after that week has passed. The effective date of the new claim establishes the period of time during which wages can be used for determining the monetary entitlement.

1. Each individual shall report in person to file an initial claim for benefits. The effective date of the claim for benefits shall be the Sunday of the week in which the claim is filed.

(b) Each individual shall report in person to the local employment service office as directed by the Division to register for work and for other job related activities. Failure to report without good cause shall render the individual ineligible for benefits for the week in which such failure to report occurs. For purposes of this section, good cause means any situation over which the claimant did not have control and which was so compelling as to prevent the claimant from reporting as required by the Division.

(c) To maintain continuing eligibility for benefits, an individual shall continue to file weekly claims in person or by mail in accordance with instructions from the Division. No weekly claim for benefits will be allowed until the claimant has signed and furnished to the Division a claim for benefits on the prescribed form.

(d) Each individual shall file a weekly claim as soon as possible after the last week ending date shown on the claim. The Division shall consider that a weekly claim for benefits has been filed timely if postmarked or received by the Division within 14 days after the last week ending date shown on the claim. The Division shall accept claims received after the deadline if good cause has been shown by the individual for late filing, provided that the individual reports by mail or in person as soon as possible thereafter.

1. Each individual, when directed by the Division, shall report in person to the local unemployment insurance claims office for scheduled interviews. Failure to report in person without good cause shall result in ineligibility for the week in which the failure occurs.

(e) Each individual may reopen his or her claim any time during the 52-week period after first filing a claim, by reporting to a local unemployment insurance office in person as outlined in (a)1 above.

1. Each individual who fails to report by mail for four consecutive weeks of benefits must report to the unemployment insurance office in person to reopen the claim.

2. Each individual who returns to full employment during more than one calendar week in a reporting cycle must report in person to reopen the claim.

(f) The Division shall deny benefit rights to each individual who fails to report as directed by the Division except when the failure to report is due to reemployment and the claimant has notified, in writing, the local unemployment insurance claims office at which he or she has been reporting of the reason for the failure to report within 14 days after the last week ending date being claimed.

(g) Each individual who, without good cause, reports before the designated reporting time may be required to report at the designated time. Each individual who, after being warned, and without good cause, has reported after the designated reporting time may be required to report again at a future day and time.

(h) The Division may permit an individual to report to any other local unemployment insurance claims office if the individual demonstrates to the satisfaction of the Division that he or she is unable to continue to report to the local office where he or she originally filed the claim.

(i) During periods when unusual unemployment conditions prevail, or in the case of a temporary mass separation with a specific date of recall, the Division, through the Director, may, subject to the approval of the Employment and Training Administration of the United States Department of Labor, direct individuals to report on any periodic basis deemed to be in the best interests of all concerned.

Amended by R.1975 d.72, eff. April 7, 1975.

See: 7 N.J.R. 169(b).

Amended by R.1984 d.458, eff. October 15, 1984.

See: 16 N.J.R. 1456(a), 16 N.J.R. 2822(a).

Section substantially amended.

Amended by R.1986 d.286, effective July 21, 1986.

See: 18 N.J.R. 811(a), 18 N.J.R. 1478(a).

Old (a)1 deleted and new text inserted; (a)2 substantially amended.

Correction: (h)1 should read "Failure to report shall not be . . .".

See: 19 N.J.R. 1841(a).

Repeal and New Rule, R. 1990 d.420, effective August 20, 1990.

See: 22 N.J.R. 901(a), 22 N.J.R. 2508(b).

Section was "Claims and registration for individuals generally".

Case Notes

Claimant's letter to claims office stating that he was unable to report on appointed day was insufficient to comply with former rule requiring personal report. *Zimmerman v. Bd. of Review, Div. of Unemployment Security*, 132 N.J.Super. 316, 333 A.2d 554 (App.Div.1975).

12:17-2.2 Claimant identification

(a) The Division shall require each claimant to present proper identification, including a valid Social Security Card and other documentation showing his or her legal name and address in order to file a claim for benefits.

1. In the event a claimant is unable to present his or her Social Security Card for verification or if departmental records indicate any discrepancies with the Social Security Account Number presented, the Division will require the claimant to obtain a duplicate Social Security Card and/or to resolve any discrepancies.

2. Any person who refuses or fails to cooperate with the Division in any effort to verify the validity of a Social Security Account Number, may, after being given the opportunity for a hearing, be held ineligible for benefits from the date of claim and liable to refund any benefits previously paid.

Amended by R.1984 d.458, eff. October 15, 1984.

See: 16 N.J.R. 1456(a), 16 N.J.R. 2822(a).

This section was "Claims and registrations for individuals located in isolated areas".

New Rule, R.1987 d.103, effective February 17, 1987.

See: 18 N.J.R. 1683(b), 19 N.J.R. 363(c).

12:17-2.3 (Reserved)

12:17-2.4 Forms prescribed for recording claims for benefits for unemployment

(a) Claims for benefits for unemployment shall be made on the forms prescribed by the Director, setting forth:

1. That the individual claims benefits and such other information as is required.

(b) The claim for benefits for unemployment shall constitute the individual's claim for benefits or waiting period credit.

(c) Continued claims for benefits for unemployment shall be made on the forms prescribed by the Director, setting forth:

1. That the individual continues his claim for benefits;

2. That he is unemployed;

3. That since the last day for which he claimed unemployment insurance benefits, he has performed no services and earned no wages except as indicated; and

4. Such other information as is required.

(d) The continued claim for benefits for unemployment shall constitute both the individual's claim for benefits or waiting period credit.

(e) In isolated areas, in cases of mass separation, or unemployment due to a labor dispute, continued claims for benefits for unemployment may be filed by mail on forms prescribed by the Director if the Division finds that the reporting or filing of continued claims in person is impracticable.

Amended by R.1987 d.103, effective February 17, 1987.

See: 18 N.J.R. 1683(b), 19 N.J.R. 363(c).

Deleted (a)2 and 3, (c)3; (c)4. and 5. renumbered (c)3. and 4.

Case Notes

Claimant held liable to refund total amount of benefits received during period in which he failed to report part-time employment wages earned. *Malady v. Bd. of Review, Div. of Unemployment Security*, 159 N.J.Super. 530, 388 A.2d 982 (App.Div.1977), affirmed in part, reversed in part 76 N.J. 527, 388 A.2d 947 (1978) on remand 166 N.J.Super. 523, 400 A.2d 119.

12:17-2.5 Benefit determination notice

Each notice of benefit determination which the deputy is required to furnish to the claimant shall, in addition to stating the determination and its reasons, include a notice specifying the claimant's appeal rights, which shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken.

12:17-2.6 Refusal to cooperate with quality control reviews

(a) An individual shall be determined to be ineligible for unemployment insurance benefits if the individual:

1. Fails to report as directed for a quality control review interview; or

2. Fails, without good cause, to cooperate in a quality control review of his or her claim.

(b) An individual shall be determined to be ineligible as of the week in which the failure to report for an interview or the refusal to cooperate occurs, and the department shall notify the individual, in writing, of the ineligibility. The individual shall remain ineligible until such time as he or she agrees to cooperate with the review.

(c) Any employer, employing unit or agent of any employer who refuses or fails, without good cause, to cooperate with and provide wage, separation information, dates of employment, work search verification or other information required by the quality control review program will be found to have refused to provide reports deemed necessary for the administration of the unemployment compensation law, and shall be subject to the penalties set forth at N.J.S.A. 43:21-16.

New Rule, R.1988 d.373, effective August 1, 1988.
See: 20 N.J.R. 884(a), 20 N.J.R. 1949(c).

SUBCHAPTER 3. DEFINITIONS

12:17-3.1 Weeks with reference to unemployment defined

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Week of partial unemployment” means a calendar week ending at midnight Saturday in which an individual is employed not more than 80 percent of the hours normally worked in that individual’s occupation, profession, trade or industry; due to lack of work; and earns remuneration which does not exceed his weekly benefit rate plus 20 percent of such rate.

“Week of total unemployment” means a calendar week ending at midnight Saturday in which an individual performs no services and with respect to which he receives no remuneration.

As amended, R.1984 d.516, eff. November 5, 1984.
See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

Deleted “Benefit weeks” and added “calendar” and “ending at midnight Saturday” to both definitions.

Amended by R.1987 d.101, effective February 17, 1987.

See: 18 N.J.R. 1684(a), 19 N.J.R. 364(a).

Amended definition “week of partial unemployment.”

Case Notes

Claimant not deceased nor permanently disabled did not qualify for waiver of benefit repayment following payment of benefits for which he

was ineligible. *Bannan v. Board of Review*, 299 N.J.Super. 671, 691 A.2d 895 (A.D.1997).

Claimant’s employment as a commission salesman was not “full-time work” as would disqualify him from benefits. *Borromeo v. Bd. of Review*, 196 N.J.Super. 576, 483 A.2d 833 (App.Div.1984).

12:17-3.2 Week of disqualification defined

A week with respect to any disqualification arising under N.J.S.A. 43:21-5, except subsection (d) therefor, shall be a calendar week.

SUBCHAPTER 4. EMPLOYER RECORDS AND EVIDENCE CONCERNING PARTIAL UNEMPLOYMENT

12:17-4.1 Regular employee records

(a) In addition to the requirements set forth in N.J.A.C. 12:16-5.1 and 5.2, each employer shall keep his payroll records in such form that it would be possible from an inspection thereof to determine with respect to each regular employee in his employ who may be eligible for partial benefits:

1. Remuneration for each calendar week ending at midnight Saturday.
2. Whether any such period was a week of less than full-time work, as determined according to the norm or custom associated with the individual’s occupation, profession, trade, or industry.
3. Time lost, if any, during such week when work was available.

As amended, R.1984 d.516, eff. November 5, 1984.

See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

Substantially amended.

Amended by R.1987 d.101, effective February 17, 1987.

See: 18 N.J.R. 1684(a), 19 N.J.R. 364(a).

Added text “, as determined according . . .”

12:17-4.2 Evidence of weekly partial unemployment

(a) In cases of less than full-time work, due to lack of work, when the remuneration payable by an employer to an individual in his employ does not exceed 120 percent of the maximum weekly benefit rate, the employer not later than the time when such remuneration is payable shall issue to the individual in writing a statement (in the form of a pay envelope, pay check stub, copy of pay check, or similar pay voucher) with respect to such calendar week ending at midnight Saturday which shall show the following information:

1. The name and address of the employer;

2. The name of the worker;
3. The date of the last day of such week;
4. The amount of remuneration for such week;
5. A notation to the effect that such worker earned "less than full-time remuneration because of lack of work." Such notation is to be followed by the signature (actual or facsimile) of the employer or his authorized agent or other positive identification of the authority supplying the evidence.

(b) The number of hours which constitutes less than full-time work shall be construed to mean not more than 80 percent of the hours worked according to the norm or custom associated with the individual's occupation, profession, trade, or industry.

As amended, R.1984 d.516, eff. November 5, 1984.

See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

Added "calendar" and "ending at midnight Saturday."

Amended by R.1987 d.101, effective February 17, 1987.

See: 18 N.J.R. 1684(a), 19 N.J.R. 364(a).

(b) added.

Case Notes

Claimant's employment as a commission salesman was not "full-time work" as would disqualify him from benefits, where his work remuneration was less than the weekly benefit rate to receive partial benefits, even though claimant was working between 30 and 40 hours each week (citing former rule). *Borromeo v. Bd. of Review*, 196 N.J.Super. 576, 483 A.2d 833 (App.Div.1984).

SUBCHAPTER 5. CLAIM FOR PARTIAL UNEMPLOYMENT BENEFITS

12:17-5.1 Registration and filing

(a) A claim to establish a benefit week under N.J.A.C. 12:17-3.1 shall be filed by the individual in person at a local unemployment insurance claims office and shall constitute such individual's notice of unemployment, and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim.

(b) Such claim shall not be valid if filed 28 or more days after the individual has been furnished by his employer with information as to his earnings in any such week as provided in Section 4.2 (Evidence of weekly unemployment) of this Chapter, except that the Director may, at his discretion, extend the period of validity if it is found desirable.

As amended, R.1984 d.516, eff. November 5, 1984.

See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a).

(a) substantially amended.

12:17-5.2 Extended registration period for cause

Notwithstanding the provision of Section 5.1 (Registration and filing) of this Chapter, if the Director finds that the failure of any individual to register and file a claim for partial unemployment benefits within the time set forth in said Section 5.1 (Registration and filing) was due to failure on the part of the employer to comply with any of the provisions of Subchapter 4 (Employer Records and Evidence concerning Partial Employment) of this Chapter, or to coercion or to intimidation exercised by the employer to prevent the prompt filing of such claim or to failure by the agency to discharge its responsibilities promptly in connection with such partial unemployment, the Director shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of his potential rights to benefits and his earnings during the period of such partial unemployment; provided, that such period may not extend beyond 13 weeks subsequent to the end of the actual or potential benefit year during which the week of partial unemployment occurred.

SUBCHAPTER 6. PAYMENT OF BENEFITS TO INTERSTATE CLAIMANTS

12:17-6.1 Cooperation with other states

This subchapter shall govern the Division in its administrative cooperation with other states adopting a similar regulation for the payment of benefits to interstate claimants.

12:17-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Agent state" means any state in which an individual files a claim for benefits from another state.

"Benefits" means the compensation payable to an individual with respect to his unemployment, under the unemployment compensation law of any state.

"Interstate Benefit Payment Plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

"Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the Division finds that this exclusion would create undue hardship on such claimants in specified areas.

“Liable state” means state against which an individual files, through another state, a claim for benefits.

“State” includes the District of Columbia, the Virgin Islands and Puerto Rico.

“Week of unemployment” includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

12:17-6.3 Registration for work

(a) Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by the law, regulations, and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

(b) Each agent state shall duly report, to the liable state in question, whether each interstate claimant meets the registration requirements of the agent state.