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State of New Jersey  
Department of Labor and Industry  
DIVISION OF EMPLOYMENT SECURITY

**Employment Security Informational Series**

**PART III**

**Rules and Regulations  
In Respect to the  
Unemployment Compensation Law**

(Including Temporary Disability Benefits Law)

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Revision of May 1, 1953

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**REGULATIONS**

*in respect to*

**CONTRIBUTIONS, RECORDS AND REPORTS**

Hereinafter, "Division" refers to Division of Employment Security and "Director" to the Director of that Division.

### REGULATION 1—CONTRIBUTIONS BY EMPLOYERS

Refer to the Unemployment Compensation Law—

R. S. 43:21-7(a).

**1.01 Employers' Contributions Accrue as Remuneration Is Earned:** Employers' contributions shall accrue and become due as remuneration is earned by workers in covered employment. Payments of employers' contributions shall be made as hereinafter prescribed, but the Director, by special regulation, may require the contributions due from any employer for any period to be paid upon demand.

**1.02 Due Dates of Contribution Payments:** Employers' contributions shall be paid and contribution reports filed on a quarterly basis as follows:

| Contributions for<br>Quarter Ending | Contributions Payable<br>Not Later Than |
|-------------------------------------|---|
| March 31                            | April, last business day                |
| June 30                             | July, last business day                 |
| September 30                        | October, last business day              |
| December 31                         | January 31,                             |

except, however, that the Director is authorized to require employers to file contribution reports and pay contributions on a monthly or other basis when, in his discretion, he considers it necessary to do so.

**1.03 Bases of Contribution Payments:** The payment for each reporting period shall include contributions, computed with respect to wages paid for employment in all work periods (weekly, bi-weekly, semi-monthly, monthly) ended within the reporting period.

In computing and paying employer contributions to the Unemployment Compensation Fund, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

**1.04 Due Date and Basis of First Report and Contribution from Employer Becoming Newly Liable during the Year:** Except as to liability by election as provided in Regulation 6, the first contribution payment of an employer who becomes newly liable in any calendar year shall be payable on or before the last business day of the month following the end of the reporting period in which the subject status accrues; provided that the first contribution payment of an employer who becomes newly liable in December of any year shall be payable not later than the thirty-first day of January of the following year. The first payment of such an employer becoming

liable in the course of a calendar year shall include his own contributions with respect to all wages paid for employment from the first day of the calendar year.

**1.05 Director May Authorize Installment Payments of First Contribution by Newly Subject Employer:** The Director, by special rule, in the case of a newly subject employer, may permit the payment of his first contribution in installments, but the last installment shall be payable not later than the last day for filing tax returns in order to obtain full credit under the Federal Unemployment Tax Act. If the amount of any such installment for which any due date is assigned is not paid on or before such date, the total amount of the unpaid contribution shall become payable upon notice and demand by the Director.

**1.06 Voluntary Payment of Additional Contributions:**

(a) A voluntary payment of additional contributions must be made within thirty (30) days after the date of mailing of the Notice of Employer Contribution Rate unless, for good cause, the date of payment has been extended by the Director for not more than an additional sixty (60) days.

(b) No payment forwarded as additional contributions will be applied to the recomputation or redetermination of an employer's rate for the current tax year (July 1-June 30) if the employer is delinquent as to any period prior to the current tax year; in such case, the remittance will be first applied to the past indebtedness and the balance, if any, will be considered as additional contributions.

(c) Any adjustment resulting from the payment of additional contributions "shall be made only in the form of credits against accrued or future contributions."

(d) The voluntary payment of additional contributions will not affect a current 2.7% rate if an asterisk (\*) is inserted in either of the blocks in Item "D" appearing on Form AC-174 (Notice of Employer Contribution Rate).

(e) The determination of the above amount of additional contributions and its adequacy are the sole responsibility of the employer.

**1.07 Director May Require Payment in Guaranteed Funds:** The Director may, in his discretion, require payment in guaranteed funds of any amount required to be paid under the Unemployment Compensation Law of New Jersey or rules or regulations promulgated thereunder, in any case in which he considers such type of payment necessary or desirable.

**1.08 Payment of Contributions and Submission of Contributions Reports in Regard to Seamen's Wages Paid under Shipping Articles:**

(a) For the purpose of this Section, the term "work period"

means the period of a voyage or engagement of the crew of a vessel under "Articles of Agreement" pursuant to Title 46 of the United States Code.

(b) Notwithstanding any other provisions of Sections 1.02 and 1.03 of this Regulation, if a work period as defined in Subsection (a) above began in one calendar quarter and ended in another calendar quarter, the total amount of wages for such work period may be reported for the calendar quarter in which such work period terminated, and contributions with respect to wages so earned paid accordingly.

**REGULATION 2—CONTRIBUTIONS BY WORKERS**

Refer to the Unemployment Compensation Law—

R. S. 43:21-7(d).

**2.01 Workers' Contributions Trust Fund:** Every employer shall withhold his workers' contributions from their wages at each time of payment of such wages. In withholding workers' contributions from their wages and in paying any contributions to the Unemployment Compensation Fund, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. The moneys so withheld, while in the possession of the employer, shall constitute a trust fund and the amount thereof shall be promptly credited to a separate account which shall be charged with the amount of each remittance to the Division for workers' contributions to the Unemployment Compensation Fund. Such account shall be kept posted up to date by the employer so as to show at all times the amount withheld from workers, the amount of each remittance to the Division, and the amount of workers' contributions withheld but not remitted to the Division.

**2.02 Evidence of Amounts Withheld to be Furnished to Workers:**

(a) Every employer, at the time of making each payment of wages, shall furnish to each of his workers a statement showing clearly the total amount deducted for contributions to the Division for the Unemployment Compensation Fund and the State Disability Benefits Fund. The statement shall be such as can be delivered to each worker in order to enable him to determine for himself whether the total amount of his contribution is correctly computed. A notation on a pay check or a pay envelope showing the total wages and, as a separate item, the amount deducted for contribution to the Division for the said funds will constitute compliance with the provisions of this Subsection.

**2.03 Reporting and Paying Workers' Contributions to the Division:** Every employer shall include on his contribution report the

amount of contributions due and payable on behalf of his workers. Every contribution report shall be accompanied by a remittance for the amount of both the employer contributions and the contributions payable by the employer on behalf of his workers.

### REGULATION 3—CONTRIBUTION BY ONE EMPLOYING UNIT ON BEHALF OF ANOTHER

Refer to the Unemployment Compensation Law—  
R. S. 43:21-7(d).

**3.01 Certification of Payroll Information by Subcontractor, or Other Employing Unit, on Whose Wages Employer is Required to Pay Contributions:** A subcontractor, or other employing unit which employs workers on whose wages contributions must be paid by some employer subject to the Unemployment Compensation Law, shall certify to such employer the same payroll information as the Division requires of the employer with respect to his workers who are hired directly. This information must be furnished to the employer by the subcontractor or other employing unit before the tenth day of each calendar month during the progress of its work, and within ten days after the completion of its work or after its contract of hire has terminated.

**3.02 Liability of Employer:** To the number of its own workers and its own payroll, the employer shall add (1) the number of workers so reported, and (2) the amount of their wages paid, and shall remit both employer and employee contributions with respect to such workers, along with its own contributions, for the period covered.

### REGULATION 4—REPORTS

Refer to the Unemployment Compensation Law—  
R. S. 43:21-6(b) (2), 43:21-11(a), 43:21-11(g)  
43:21-14(a) and 43:21-16(b) (2).

**4.01 Reports Required:** Every employer shall file such contribution and statistical reports, and reports of wages paid to individual workers as may from time to time be required of it by the Director, and every employing unit shall file such reports as may be required by the Director with respect to persons employed by it as shall be necessary to determine its status under the Law.

**4.02 Force and Effect of Instructions Relating to Reports:** Instructions relating to any report or report form required or provided by the Division shall have the force and effect of regulations issued pursuant to Subsection 43:21-11(b) of the Unemployment Compensation Law.

**4.03 Penalty for Failure to File Reports:** The penalty prescribed by law for delinquency in filing reports (except for such reports as

may be required under paragraph 43:21-6(b) (2) of the Unemployment Compensation Law) shall be computed for each report from and including the day after such report is due through the day before it is received in the central office of the Division at Trenton, New Jersey. If an employer or employing unit who has been granted an extension of time fails to file his report on or before the termination of the period of the extension for the filing thereof, the penalty for failure to file shall be payable from the original due date as if no extension had been granted.

**4.04 Conditions under Which Employers or Employing Units May Be Required to Report Currently Wages Paid:**

(a) The Director may, in his discretion, require any employer or employing unit to report wages paid to each and every worker in his employ within seven (7) days from the date of payment thereof, if the Director deems same necessary for the effective administration of the Unemployment Compensation Law.

(b) Any employer or employing unit required to comply with subsection (a) will be duly notified by the Director.

**4.05 Reporting of Wages, Remuneration and Other Information Upon Request:**

(a) Any employer or employing unit shall furnish the record of wages and remuneration paid to a worker, and such other information as may be required under the provisions of R. S. 43:21-6(b) (2).

(b) Failure to comply with Subsection (a) above will subject such employer or employing unit to the penalties prescribed in R. S. 43:21-16(b) (2).

**4.06 Notices and Reports Required Where Suspension (Including Transfer) of Business Operations Occurs:**

(a) Where a suspension (including a transfer) of the business operations in this State of any employer occurs, such employer shall give advance notice thereof to the Division. In the event that it is impracticable to give such advance notice, the employer shall notify the Division within forty-eight (48) hours after such suspension (including a transfer).

(b) Such notice shall be filed with the Chief of Contributors' Service, Division of Employment Security, Trenton, New Jersey, and shall contain the following information:

1. The name and address of the employer;
2. The expected date or date of suspension or transfer of business operations;
3. The reason(s) for such action;
4. Whether such suspension or transfer of operations is permanent or temporary;

5. Whether wage and separation information will be available for a period of one year from date of suspension or transfer of business operations;
6. The name and address of the person or organization from whom such information will be obtainable.

(c) Upon receipt and examination of the notice required in (b) above, the Division shall determine whether or not the employer shall be required to furnish wage and separation reports.

#### REGULATION 5—RECORDS

Refer to the Unemployment Compensation Law—  
R. S. 43:21-11(g).

**5.01 Payroll Records to be Kept by Every Employing Unit:** Every employing unit having workers in employment, regardless of whether such unit is or is not an "employer" as defined in the Unemployment Compensation Law of New Jersey, shall keep payroll records which shall show, for each pay period:

- (a) The beginning and ending dates of each pay period;
- (b) The total amount of wages paid in each pay period;
- (c) The dates in each calendar week in which there were the largest number of workers in employment, and the number of such workers;
- (d) The full name of each employee on each payroll;
- (e) The money remuneration or salary, including special payments, of each employee, on each payroll;
- (f) The cash value of other remuneration, including special payments, of each employee, on each payroll;
- (g) The total remuneration of each employee, on each payroll (item (e) plus item (f) );
- (h) The total number of individuals who perform services for money or other remuneration in each pay period;
- (i) The total remuneration paid for all such individuals combined, separated by money and other remuneration, in each pay period, and in all pay periods ending within each month and within each quarter.

**5.02 Individual Worker Records to be Kept by Every Employing Unit:** Each employing unit shall keep a record for each worker engaged in employment containing:

- (a) His full name, address, and Social Security account number;
- (b) His remuneration paid in each period, showing separately:
  1. Money remuneration, including special payments;
  2. Reasonable cash value of remuneration paid by the em-

ployer in any medium other than money, including special payments;

3. Special payments (including 1 and 2 above). Record under this heading the amount of any special payments such as bonuses, gifts, etc., which have been paid during the pay period but which relate to employment in a prior period. Show separately under this head: (a) money payments, (b) reasonable cash value of other remuneration, (c) the nature of such payments, (d) the period during which the services were performed for which special payments were payable.

(c) The date on which he was hired, rehired, or returned to work after temporary layoff, the date he was separated from employment and the reason for such separation.

(d) Such information as may be necessary to determine his remuneration on a calendar week basis.

**5.03 Length of Time Records Must Be Kept:** All records required by these Regulations shall be kept safe and readily accessible at the place of business of the employing unit required to keep such records. Such records shall at all reasonable times be open for inspection by authorized representatives of the Division and shall be preserved for a period of at least four years from the due date of the report for the period to which they relate.

#### REGULATION 6—ELECTION OF COVERAGE

Refer to the Unemployment Compensation Law—  
R. S. 43:21-8(c).

**6.01 Application for Election:** Any employing unit desiring to elect to become subject to the Unemployment Compensation Law of New Jersey may request from the Division forms for voluntary election to become an employer under the Law, or to extend its coverage to individuals performing services which do not constitute employment as defined in the Law. Such forms may be completed and filed by the employing unit only after notices of intention to elect to come under the Unemployment Compensation Law of New Jersey or to extend existing coverage have been posted in its factory or place of business for at least ten days, so as to inform all its workers of the intention of their employer to elect, and to give them opportunity to protest such election. In any case in which the Director shall consider the posting of notice as aforesaid not a suitable manner in which to inform the workers of their employer's intention to elect, he may prescribe, in substitution therefor, such manner of informing the workers as to him shall seem necessary and proper. The forms for voluntary election to become an em-

ployer under the Unemployment Compensation Law of New Jersey or to extend coverage and the form of "Notice of Intention to Elect to Come Under the New Jersey Unemployment Compensation Law" shall be prescribed by the Director.

**6.02 Right of Workers to Protest:** Every worker shall be given an opportunity to protest to his employing unit. The employing unit shall file with its written election to become an employer or to extend coverage a statement of the number of workers who protested against its becoming subject to the Law and the total number of persons employed by it in the week in which such election is filed.

**6.03 Election Subject to Approval by Director:** Any such election shall become binding upon approval by the Director, at which time an approved copy of the written election shall be forwarded to the employer. If for any reason the Director is unable to approve any voluntary election, the employing unit shall be notified of the reasons for which approval is withheld.

**6.04 Effect of Approval of Election:** Each approval of an election shall state the date as of which the approval is effective. The first contribution payment of an employing unit which elects, with the written approval of the Director, to become an employer, shall become due and shall be paid on or before the last business day of the month following the close of the reporting period in which the conditions of becoming an employer by election are satisfied, and shall include employer contributions with respect to all wages paid on and after the date stated in such approval (as of which such employing unit becomes an employer), up to and including the last pay period in the reporting period in which the conditions of becoming an employer by election are satisfied. Such first payment shall also include workers' contributions with respect to all wages paid for employment occurring after the date when the employing unit satisfied all the conditions of becoming an employer by election, up to and including the last pay period in the reporting period in which such conditions were satisfied.

## REGULATION 7—IDENTIFICATION OF COVERED WORKERS

Refer to the Unemployment Compensation Law—  
R. S. 43:21-11(a).

**7.01 Employer to Ascertain Social Security Account Number of Each Worker:** Each employer shall ascertain the Social Security account number of each worker employed by him in employment subject to the Unemployment Compensation Law of New Jersey.

**7.02 Employer to Report Worker's Social Security Account Number:** Each employer shall report a worker's account number in

making any report required by the Division with respect to such worker.

**7.03 Employer to Secure Evidence of Application for Social Security Account Number Where Worker Does Not Have Account Number:** If an employer has in his employ a worker engaged in employment who does not have an account number, he shall request the worker to show him a receipt issued by an office of the Social Security Administration indicating that the worker has filed an application for an account number. The receipt shall be retained by the worker.

**7.04 Employer to Inform Worker Regarding Regulation of Federal Government Relative to Social Security Account Numbers:** If a worker fails to report to his employer his correct account number or to show him a receipt issued by an office of the Social Security Administration indicating that he has filed an application for an account number, the employer shall inform the worker that Regulation 106 of the Bureau of Internal Revenue, United States Treasury Department, under the Federal Insurance Contributions Act provides that:

(a) **Worker's Duty to Report Social Security Account Number to Employer:** Each worker shall report to every employer for whom he is engaged in employment his Social Security account number and his name exactly as shown on the account number card issued to him by the Social Security Administration.

(b) **Worker Who Has Not Secured Social Security Account Number to File Application Therefor:** Each such worker who has not secured an account number shall file an application for an account number on Form SS-5 of the Treasury Department, Bureau of Internal Revenue. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves the employ of his employer if such date precedes such seventh day. Copies of Form SS-5, "Application for a Social Security Account Number," can be secured at any field office of the Social Security Administration, a public employment office which takes claims for unemployment compensation, the local post office, or from any collector of Internal Revenue and shall be filed with the Social Security Administration field office or such public employment office nearest the worker's place of employment, or, if he is not working in the United States, with the Social Security Administration at Baltimore, Maryland.

(c) **Worker Who Has Lost Social Security Account Number Card:** Any worker who has lost his account number card may secure a duplicate card by applying at the field office of the Social Security Administration nearest his place of employment.

(d) **Duty of Employer and Worker Where Worker Fails to Submit Social Security Account Number or Receipt Showing Application Therefor:** If, on the fourteenth day after the date on which the worker first performs employment for wages for the employer, or on the day on which he leaves the employ of the employer, whichever is the earlier, the worker does not have an account number, and has not shown the employer a receipt issued to the worker by an office of the Social Security Administration indicating that he has filed an application for an account number, the worker shall furnish the employer an application on Form SS-5, completely filled in and signed by the worker. If a copy of Form SS-5 is not available, the worker shall furnish the employer a written statement, signed by the worker, of the date of the statement, the worker's full name, present address, date and place of birth, father's full name, mother's full name before marriage, worker's sex, and color or race, and a statement as to whether the worker had previously filed an application on Form SS-5, and, if so, the date and place of such filing. Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of his obligation to make an application on Form SS-5 as set forth in Subsection (b), above.

**7.05 Employer to Inform Worker in Certain Cases:** The employer shall inform the worker, in instances in which the information is pertinent, that, in accordance with Regulation 106 of the Bureau of Internal Revenue, United States Treasury Department:

**Right of Worker to Change Account Number; Duty of Worker to Report any Change in Name or to Correct Erroneous Information Supplied on Form SS-5:** Any worker may have his account number changed at any time by applying to a field office of the Social Security Administration and showing good reason for a change. Any worker whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS-5, should report such change or correction to a field office of the Social Security Administration. Copies of Form OAAAN-7003, "Employee's Request for Change in Records," for making such reports, may be obtained from any field office of the Social Security Administration, the central office of the Division or a public employment office which takes claims for unemployment compensation.

**7.06 Procedure for Employer Where Worker Fails to Report Social Security Account Number or Show Evidence of Application Therefor:** If a worker fails to comply with the requirements enumerated under Section 7.04 above, his employer shall execute a Form SS-5, "Application for a Social Security Account Number," or a statement, signed by the employer setting forth as fully and as clearly as possible the worker's full name, his present or last known address, date and place of birth, father's full name, mother's full name before marriage, the worker's sex, and color or race, and a statement as to

whether an application for an account number has previously been filed by the worker and, if so, the date and place of such filing.

### REGULATION 8—NOTICE TO WORKERS

Refer to the Unemployment Compensation Law—

R. S. 43:21-7(d) (4) and 43:21-11(a).

**8.01 Subject Employers to Post and Maintain Notices:** Every employer subject to the provisions of the Unemployment Compensation Law of New Jersey (including every employer who has elected with the approval of the Director to become subject to the Law) shall post and maintain printed notices to his employees informing them that he is covered by the Unemployment Compensation Law of New Jersey, and has been so registered by the Division. Such notices shall be of such design and in such numbers, and shall be posted at such places as the Director may determine to be necessary to so inform employees. No such notice shall be posted by any person, employing unit, or employer who has not complied with the provisions of the Unemployment Compensation Law and to whom an unemployment compensation registration number has not been assigned by the Division; or who, in accordance with the provisions of the Law, has ceased to be an employer as defined in the Law.

**8.02 Employer to Post and Maintain Notice to Workers on Termination of Subject Status:** Every employing unit which has ceased to be a subject employer, pursuant to provisions of Section 43:21-8 of the Unemployment Compensation Law, shall post and maintain notice of such fact on forms supplied by the Division, in order to inform its workers that they are not in covered employment and are not liable for contributions to the Unemployment Compensation Fund.

### REGULATION 9—WITNESS FEES AND MILEAGE ALLOWANCES

Refer to the Unemployment Compensation Law—

R.S.43:21-11(h).

**9.01 Subpoena ad Testificandum:** There shall be allowed witness fees at the rate of 50 cents for each day of attendance upon a hearing in response to a subpoena ad testificandum and mileage at the rate of 7 cents per mile from the residence of the witness to the place of hearing and return.

**9.02 Subpoena Duces Tecum:** There shall be allowed witness fees at the rate of \$1.00 for each day of attendance upon a hearing in response to a subpoena duces tecum and mileage at the rate of 7 cents per mile from the residence of the witness to the place of hearing and return.

**REGULATION 10—HEARINGS**

**10.01 Hearings:** All hearings involving any question of coverage, or status, or liability for contributions, penalties and interest, or of reporting, or of refunds, or of rates of contribution shall be conducted in accordance with the procedure hereinafter prescribed in this Regulation.

**10.02 Appearances:** Appearances for and on behalf of interested parties at formal hearings and proceedings shall be limited to accredited lawyers of the New Jersey Bar; this rule, however, shall not apply to informal hearings, conferences or proceedings not subject to judicial review.

**Procedure**

**10.03 Application for Hearing:** Any written notice of determination by a representative of the Division, as to any question of coverage or status or liability for contributions, penalties and interest, or of reporting, or of refunds, or of rates of contribution shall be deemed final, unless any party with an interest in the matter shall make written request for a hearing within twenty days after the receipt of the notification, or thereafter upon good cause shown. Requests for hearings shall be directed to the Division, attention of Hearing Officer.

**10.04 Scheduling of Hearings:** When a hearing is requested, the Hearing Officer shall supply necessary forms of "Petition for Hearing," which shall be completed and returned to him within ten days after receipt thereof. Upon the filing of the "Petition for Hearing," copies shall be furnished to the Chief of Contributors' Service and the Chief Counsel. A "Notice of Hearing" shall be sent to the parties with an interest of record, specifying the place, date, and time of the hearing at least ten days prior to the date of the hearing. A copy of such notice shall be furnished to the Chief Counsel. All hearings shall be promptly scheduled.

**10.05 Conduct of Hearings:** All hearings shall be held before a Hearing Officer designated by the Director. All hearings shall be formal except where the petitioner requests or consents to an informal hearing. The Hearing Officer may issue subpoenas to compel the attendance of witnesses, production of books, records, and all other papers necessary as evidence in the proceedings; may administer oaths examine and cross-examine witnesses, and do such other acts as may be necessary for the hearing and determination of the issues involved. The Chief Counsel, his representative or any qualified representative of the Division, shall have the right to appear at any hearing and examine and cross-examine any witnesses, and adduce evidence. A technical observance of the rules of evidence shall not be required. The testimony shall be confined to developing the facts pertinent and

relevant to the issues. Stipulations in writing of facts agreed upon may be made a part of the record. A complete stenographic record of the hearing shall be made and, if necessary, transcribed. When the hearing is concluded, oral argument upon both the law and the facts may be presented or required; briefs or written memoranda may be presented or required within a reasonable time to be fixed by the Hearing Officer. Any interested party may withdraw from the proceedings by filing with the Hearing Officer written notice to that effect. Failure to appear at a scheduled hearing shall be considered as a withdrawal from, or an abandonment of interest in the proceedings unless within five days thereafter it is shown to the satisfaction of the Hearing Officer that there was good cause for such failure. Adjournments of hearings shall be granted at the discretion of the Hearing Officer. The Hearing Officer shall deliver to the Director a complete record of the proceedings, together with his findings of fact.

**10.06 Decisions and Notification:** All determinations and decisions shall be made by the Director. Copies of all determinations made by the Director shall be supplied or mailed to all interested parties by the Hearing Officer and attested by him. Any determination and decision of the Director shall become final as to any party upon the mailing of a copy thereof to such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address.

**10.07 Review of Decisions:** Any determination or decision of the Director shall be reviewable by the Commissioner of Labor and Industry, provided application therefor is made within twenty (20) days after the same became final. The determination and decision of the Commissioner shall become final as to any party upon the mailing of a copy thereof to such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address.

**10.08 Requests for Hearing or Redetermination:** Applications or requests for a rehearing or a redetermination shall be made within twenty (20) days after the determination and decision of the Director or Commissioner has become final. Such applications or requests shall be directed to the Division, attention of Hearing Officer.

**REGULATION 11—JOINT ACCOUNTS**

**Refer to the Unemployment Compensation Law—**

**R. S. 43:21-7(c) (2).**

**11.01 Application for Joint Account:** Two or more employers desiring to have their accounts joined for the purpose of Section 43:21-7 of the Unemployment Compensation Law may request from the Division forms for making application therefor. Such forms shall be completed and filed jointly by all the employers desiring to have their accounts joined into one account. The form of "Application for Es-

establishment of a Joint Account" shall be prescribed by the Director.

**11.02 Effective Date and Duration:** A joint account shall be established only as of the first day of January of any calendar year and provided that all the employers desiring to have their accounts joined file a written "Application for Establishment of a Joint Account" with the Division prior to the 31st day of January of such year. Such joint account shall become effective after approval by the Director and the joint account so established shall remain in force for not less than three full calendar years, subject to the provisions of Sections 11.05 and 11.06, below. Contribution rates based on such joint accounts shall become effective for the fiscal year which begins on the first day of July of each calendar year.

**11.03 Eligibility:** A joint account shall be established only after it has been shown to the satisfaction of the Director that:

(a) At the time of application, all the employers requesting such joint account have employment covered by the New Jersey Unemployment Compensation Law and are owned or controlled directly or indirectly by the same interests;

(b) None of such employers was participating in another joint account throughout the preceding calendar year;

(c) The requirements of paragraphs (3) and (4) of Subsection 43:21-7(c) of the Unemployment Compensation Law have been met in fact by all such employers;

(d) Such employers intend to maintain the common ownership or control for at least three calendar years and will notify the Division promptly of any change in such ownership or control; and

(e) All contributions, interest and penalties which have become due from such employers on or before the date of application have been paid.

**11.04 Maintenance of Joint Accounts:** Separate accounts shall be maintained for each employer participating in a joint account. At the beginning of each calendar year these separate accounts shall be combined for the purpose of computing a joint contribution rate. Such joint rate shall be the contribution rate for each employer participating in the joint account.

**11.05 Dissolution:** Joint accounts may be dissolved as of January 1st of any calendar year under any one of the conditions set forth below:

(a) If at any time the Division finds that with respect to such calendar year any one of the eligibility conditions set forth in Section 11.03 with respect to employment, contributions, interest and penalties, and ownership or control, no longer exists or existed and that it would not be in the best interest of the State to continue the joint account.

(b) If at any time the Division finds that with respect to such calendar year only one of the employing units whose accounts have been joined remained or remains an employer within the meaning of the New Jersey Unemployment Compensation Law.

(c) Upon written application of one or more of the employers whose accounts have been joined, if such application is filed with the Division on or before January 31st of such calendar year and the Division finds that the joint account has been in existence for at least three calendar years. The form of "Application for Dissolution of a Joint Account" shall be prescribed by the Director.

#### 11.06 Modification of Joint Account:

(a) Another employer may be added to an existing joint account if all the employers involved file a new application for a new joint account and comply with the requirements of this Regulation in its entirety.

(b) If during any calendar year an employing unit participating in a joint account ceases to be an employer under the New Jersey Unemployment Compensation Law, or ceases to be owned or controlled by the same interests, such employing unit shall be separated from the joint account as of the first day of such calendar year, but shall continue for the current fiscal year with the contribution rate computed under the joint account.

### REGULATION 12—TRANSFER OF EMPLOYMENT EXPERIENCE

Refer to the Unemployment Compensation Law—  
R. S. 43:21-7(c) (7).

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**12.01 Application for Transfer:** A predecessor employer and successor in interest may jointly make application for the transfer of the employment experience of the predecessor with respect to the organization, trade, assets or business transferred in whole or in part by the predecessor to the successor in interest. For this purpose, Form UC-47 (Joint Application for Transfer of Employment Experience) shall be provided by the Director.

**12.02 Period Within Which Application Must be Made:** Either the predecessor or the successor in interest shall notify the Division of the transfer and acquisition and of its intention to apply for a transfer of employment experience within four calendar months after the date of transfer and acquisition, or thereafter upon good cause shown. The application shall be mailed to the entity giving the notice of the transfer and acquisition and shall be completed and filed within thirty days from the date of mailing.

**12.03 Effective Date of Transfer:** In case the application for transfer of employment experience is approved, the employment experience

so transferred shall be used in determining the employer contribution rate of the successor in interest for the fiscal year beginning July first following the date of the transfer and acquisition.

#### 12.04 Assignment of Contribution Rates for Interim Periods:

(a) Any employer who acquires the organization, trade, assets or business in whole or in part of another employer shall continue to pay contributions at the rate currently assigned to him for the period from the date of acquisition to July first following; in such case if the predecessor continues to operate a part of the business, he shall continue to pay contributions at the rate currently assigned to him for the period from the date of transfer to July first following.

(b) Any employing unit which becomes a subject employer by virtue of acquiring the organization, trade, assets or business of an employer shall be assigned the contribution rate of the predecessor for the period from the date of acquisition to July first following.

(c) Any employing unit which becomes a subject employer by virtue of acquiring part of the organization, trade, assets or business of an employer shall be assigned the basic rate of a new employer for the period from the date of acquisition to July first following.

(d) Any employing unit which becomes a subject employer by virtue of acquiring the organization, trade, assets or business of two or more employers shall be assigned the rate of the predecessor, if they have the same rate; or, if they do not have the same rate, shall be assigned the basic rate of a new employer for the period from the date of acquisition to July first following.

#### 12.05 The Director Shall Approve a Transfer of Employment Experience Only If He Finds:

(a) That the employment experience of the predecessor with respect to the organization, trade, assets or business, or part thereof which has been transferred may be considered indicative of the anticipated employment experience of the successor in interest. In making this determination, the Director shall consider all factors, including the number of workers who have been employed and the number it is estimated who will be employed.

(b) That, in the event of a part transfer of the organization, trade, assets or business, the part transferred is a distinguishable and identifiable part, to which may be allocated a definite portion of the predecessor's contributions, annual payrolls, and benefit charges.

(c) That the predecessor and/or successor in interest have or has furnished the information covering contributions, annual payrolls, benefit charges, and other data necessary to make the transfer on the records of the Division.

(d) That neither the predecessor nor the successor in interest is delinquent with respect to the contributions, interest, or penalties.

### REGULATION 13—BENEFIT CHARGES

Refer to the Unemployment Compensation Law—  
R. S. 43:21-7(c) (1).

(a) With respect to valid claims filed before January 1, 1953, benefits paid shall be entered and charged against employers' accounts on a quarterly basis. The charges against each calendar quarter shall include all benefits paid during that quarter, except that benefit charges against the last quarter of any calendar year shall include all benefits paid during that quarter, as well as all benefits paid during the month of January following with respect to unemployment occurring during any period prior to the first day of that month. Each employer shall be furnished a statement of his unemployment benefit charges (Form AC-227) for each calendar quarter.

(b) With respect to claims filed on or after January 1, 1953, benefits paid shall be entered and charged against the account of the employer to whom such determination relates, and when the benefit payment is made, the Division shall promptly send either the stub of the benefit check or other form of notification to the employer against whose account the benefits are to be charged.

(c) The Division shall furnish to each employer an annual summary statement of benefits charged to his account.

### REGULATION 14—COVERAGE OF MULTI-STATE WORKERS

Refer to the Unemployment Compensation Law—  
R. S. 43:21-21(e).

An employer or an employing unit may invoke the provisions of subsection (e) of Section 21 (R. S. 43:21-21(e)) to have all the services customarily performed for that employer or employing unit by an employee in two or more States covered in the State in which part of the service is performed, or in which the employee has his residence, or in which the employer or employing unit maintains a place of business, by filing with the agency an application on Form UC-49 (Employer's Election to Cover Multi-State Workers); provided, a reciprocal arrangement exists between the New Jersey agency and the agency or agencies of the other State or States involved; and provided further, the State designated by the employer elects and agrees to accept the coverage of all such services.

### REGULATION 15—REFUND OF EXCESS WORKERS' UNEMPLOYMENT AND DISABILITY CONTRIBUTIONS IN MULTIPLE EMPLOYMENT

Refer to the Unemployment Compensation Law—  
R. S. 43:21-7(d) (3) and 43:21-14.1.

(a) If a worker receives wages from more than one employer, and  
(1) the sum of the contributions required and deducted from his

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wages and deposited in the State Disability Benefits Fund, plus the contributions, if any, required and deducted from his wages, toward the costs of benefits under one or more private plans approved under R. S. 43:21-33 (Section nine of the Temporary Disability Benefits Law), or

- (2) the sum of all contributions required and deducted from his wages toward the costs of benefits under two or more such private plans, if covered only by said plans,

exceeds \$22.50 with respect to employment in either the calendar year 1951 or 1952, or exceeds \$15.00 with respect to employment in any calendar year subsequent to December 31, 1952, the excess thereof shall be paid to such worker from the State Disability Benefits Fund by the Division of Employment Security if the worker establishes his right to such refund and makes claim therefor within two years after the end of the calendar year in which the wages are received.

(b) If a worker receives wages from more than one employer during the calendar year 1951, or any calendar thereafter, and the sum of the contributions required and deducted from his wages and deposited in the State Unemployment Compensation Fund exceeds \$7.50 with respect to services performed in any calendar year occurring subsequent to December 31, 1948, the excess thereof shall be paid to such worker by the Division of Employment Security if the worker establishes his right to such refund and makes claim therefor within two years after the end of the calendar year in which the wages are received.

(c) Employers shall furnish to workers, upon written demand of the Division of Employment Security, statements on Form UC-52 (Employer Certification of Wages and Deductions for New Jersey Unemployment and Disability Insurance) showing clearly the wages paid to a worker during any calendar year from which the employer made deductions and the amounts of such deductions for each of the following:

- (1) contributions to the Unemployment Compensation Fund;
- (2) contributions to the State Disability Benefits Fund; and
- (3) deductions toward the costs of benefits under approved private plan(s).

(NOTE: Also see Regulation 47.03.)

## REGULATIONS

*in respect to*

## UNEMPLOYMENT BENEFIT PAYMENTS

**REGULATION 20—SEPARATION AND DISQUALIFICATION NOTICES****20.01 Statement to Worker at Time of Separation:**

(a) Whenever a worker, who, at the time, has been employed for at least one week, is separated from his work (permanently or for an indefinite period, or for an expected duration of seven or more days) under any conditions, the employer, at the time of such separation, shall deliver to such worker Form BC-10 (Instructions for Claiming Unemployment Benefits), instructing such worker to report promptly to a local employment service office. Such statement shall contain the employer's name, complete address, and his registration number.

(b) Failure to comply with such request will subject the defaulting employer to the penalties prescribed in R. S. 43:21-16(c).

**20.02 Request for Separation or Wage Information:**

(a) Upon request by a local employment service office for information with respect to wages or the separation of any worker from an employer or employing unit, such employer or employing unit shall, within seven calendar days after the date of mailing the form covering such request, complete the form and return it to the local employment service office making the request.

(b) Failure to comply with such request will subject the defaulting employer to the penalties prescribed in R. S. 43:21-16(b)(2).

**20.03 Notice of Failure to Apply for or to Accept Suitable Work:**

(a) When any individual fails to apply for, or to accept, suitable work when offered by a former employer, and such failure, in the opinion of the employer, disqualifies such individual for benefits, such employer shall, within forty-eight hours of such failure, complete Form BC-6 (Notice of Failure to Apply for or to Accept Suitable Work) and forward it to the proper local employment service office, setting forth the facts which in the opinion of the employer constitute such individual's failure, without good cause, to apply for, or to accept, suitable work.

(b) Whenever any employer or employing unit is notified by a local employment service office that any individual has been referred to such employer or employing unit for work, the employer or employing unit shall, if such individual fails to apply for work within twenty-four hours after the time designated in such notification, forthwith advise the local employment service office making the referral.

**20.04 Notice of Unemployment Due to Mass Separations:**

(a) The term "mass separation" means the separation of fifty or more workers in a single establishment (either permanently or for

an indefinite period or for an expected duration of seven or more days) at or about the same time and for the same reason, except where the separation or unemployment is due to a labor dispute.

(b) The employer shall, forty-eight hours prior to any mass separation, file a notice thereof with the local employment service office nearest the place of employment.

(c) Such notice shall contain the following information:

- (1) The name and address of the employer;
- (2) A statement setting forth the cause of the separation;
- (3) The number of workers affected;
- (4) The expected duration of the period of unemployment;
- (5) Whether or not the employer will continue in employment during the shutdown a sufficient number of persons to handle request for wage information that may be issued by local employment offices.

(d) Where the employer has no advance knowledge of the mass separation, such notice shall be filed within twenty-four hours after the mass separation occurs.

(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 separations.

#### 20.05 Notice of Unemployment Due to a Labor Dispute:

(a) In case of unemployment due to a labor dispute, the employer or employing unit shall file immediately with the local employment service 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.

#### 20.06 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 local employment service 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 (a) above, the worker will be entitled to benefits if he meets all of the requirements of Subsections (a), (b), (c), (d) and (e) of R. S. 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.

### REGULATION 21—REGISTRATION FOR WORK AND CLAIMS FOR BENEFITS

#### 21.01 Claims and Registrations for All Individuals Except Those Covered by Sections 21.02 and 21.03, Below:

(a) Except as provided in Sections 21.02 and 21.03, below, any individual claiming benefits or waiting period credit for unemployment shall report in person at the local employment service office nearest to his residence, and shall

- (1) Register for work; and
- (2) File a claim for benefits.

(b) Except as provided in Subsections (d) and (e), below, in order to establish eligibility for benefits or for waiting period credit for any week of unemployment, the claimant shall

- (1) Report during each such week on the day or days and at the time or times designated by a representative of the Division, to the local employment service office at which he is registered for work.
- (2) File at such office after completion of such week, a continued claim for benefits, as directed.

(c) The Division, if satisfied of any individual's inability to report to the local employment service office at which he filed his claim for benefits and registered for work, may permit such individual to report to any other local employment service office.

(d) The Division, for reasons found to constitute good cause for any individual's failure to appear on the day and at the time designated for him to report at the local employment service office for the purpose of continuing his claim, may accept a continued claim from such individual for the week or weeks in question, provided he appears at the local employment service office within six days after his designated reporting day, or, if he is unable to so appear, he notifies the local employment service office within such time of the reason for his failure to appear on his reporting day.

(e) A claimant shall not be denied any benefit rights to which he is otherwise entitled, except for his inability to report on his assigned reporting day, when such inability to report is due to re-employment, provided he notifies the local employment service office at which he has been reporting, of his failure to report and the reason therefor within six days of such assigned reporting day.

(f) During periods when unusual unemployment conditions prevail, the Division, through the Director, may, subject to the approval of the Federal Bureau of Employment Security, direct claimants to

report on a bi-weekly (fortnightly) basis, if and when it is for the best interests of all concerned.

**21.02 Claims and Registrations for Individuals Located in Isolated Areas:**

(a) In order to claim benefits or waiting period credit for unemployment, any individual residing in an isolated area served only by the itinerant service of the New Jersey State Employment Service shall report in person to such itinerant service at the point most accessible for him on the first scheduled appearance of such itinerant service at such point after the commencement of his unemployment, and shall

- (1) Register for work; and
- (2) File a claim for benefits with such service.

(b) In order to establish eligibility for benefits or for waiting period credit for any week of unemployment, the claimant shall

- (1) Continue to report, as directed by a representative of the Division, on the dates and in the manner specified by such representative for reporting; and
- (2) File a continued claim for benefits.

(c) The first week of unemployment of any such individual shall commence with the first day of unemployment provided he shall report in person to such itinerant service and otherwise comply with the requirements of paragraph (a) of this Section.

**21.03 Claims and Registrations of Individuals Whose Unemployment Is Due to a Labor Dispute or a Mass Separation:**

(a) A report by an employer or employing unit to the Division of the unemployment of any individual affected by a labor dispute, or a mass separation, or, in the absence of such a report, verification by the Division of the fact that any individual's unemployment is the result of a labor dispute or a mass separation, shall constitute registration for work and the commencement of the first week of unemployment for any such individual, provided such individual shall appear in person and file a claim for benefits at the local employment service office nearest to his residence within seven days after the commencement of his unemployment due to a labor dispute or a mass separation.

(b) In order to establish eligibility for benefits or for waiting period credit for any week of unemployment, the claimant shall

- (1) Continue to report; and
- (2) File a continued claim for benefits.

**21.04 Forms Prescribed for Recording Claims for Benefits for Unemployment and Registrations for Work:**

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

- (1) That the individual claims benefits,

- (2) That he registers for work, and
- (3) Such other information as is required thereby.

(b) The claim for benefits for unemployment shall constitute both the individual's registration for work and his 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 he registers for work,
- (4) That since he last registered for work he has performed no services and earned no wages except as indicated, and
- (5) Such other information as is required thereby.

(d) The continued claim for benefits for unemployment shall constitute both the individual's registration for work and his 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.

**REGULATION 22—WEEKS WITH REFERENCE TO UNEMPLOYMENT**

**22.01 Weeks of Unemployment:**

(a) Week of Total Unemployment. A week in which an individual performs no services and with respect to which he receives no remuneration.

(b) Week of Partial Unemployment. A week in which an individual performs some services and/or earns less than his weekly benefit rate plus \$3.00 with respect to benefit years commencing prior to January 1, 1953, or less than an amount equal to his weekly benefit rate with respect to benefit years commencing on or after January 1, 1953.

**22.02 Benefit Weeks:**

(a) A benefit week with respect to any partially unemployed individual who is employed by a regular employer or employing unit on the basis of a payroll period of seven consecutive days and who works less than his normal customary full-time hours for such employer or employing unit because of lack of full-time work shall coincide with such payroll period.

(b) A benefit week with respect to any partially unemployed individual who is employed by a regular employer or employing unit on other than a weekly basis shall be any seven-consecutive-day period

of unemployment chosen by the individual; provided, that no day of unemployment shall occur in more than one such week.

(c) A benefit week with respect to any other individual shall be any seven-consecutive-day period of unemployment chosen by the individual; provided, that no day of unemployment shall occur in more than one such week.

#### REGULATION 23—WEEKS OF DISQUALIFICATION

##### 23.01 Week of Disqualification:

(a) A week with respect to any disqualification arising under Section 43:21-5 of the Unemployment Compensation Law shall be a calendar week.

#### REGULATION 24—EMPLOYER RECORDS AND EVIDENCE IN CONNECTION WITH PARTIAL UNEMPLOYMENT

##### 24.01 Records Covering Regular Employees in Connection with Partial Unemployment:

(a) In addition to the requirements set forth in Sections 5.01 and 5.02, 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 pay period week or, failing that, for any seven-consecutive-day period;
- (2) Whether any such period was a week of less than full-time work;
- (3) Time lost, if any, during such week when work was available.

##### 24.02 Employer of Regular Employees to Furnish Evidence of Weekly Partial Unemployment:

No later than the time when payment is due to any individual in his employ for remuneration of less than \$33 with respect to benefit years commencing prior to January 1, 1953, or less than \$30 with respect to benefit years commencing on or after January 1, 1953, for any week of less than full-time work, an employer shall issue to such 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 week 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 nota-

tion 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.

#### REGULATION 25—CLAIMS FOR PARTIAL UNEMPLOYMENT BENEFITS

##### 25.01 Registration and Filing of Claims for Partial Unemployment Benefits:

(a) A claim to establish a benefit week under subsections 22.02 (a) or (b) shall be filed by the individual in person at a local employment service office and shall constitute such individual's notice of unemployment, registration for work and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim. 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 24.02, except that the Director may, at his discretion, extend the period of validity if it is found desirable.

##### 25.02 Extended Period for Registration and Filing of Claims for Good Cause:

(a) Notwithstanding the provisions of Section 25.01, 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 Section 25.01 was due to failure on the part of the employer to comply with any of the provisions of Sections 24.01 and 24.02, or to coercion or 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.

#### REGULATION 26—PAYMENT OF BENEFITS TO INTERSTATE CLAIMANTS

##### 26.01 Co-operation with Other States:

(a) This Regulation shall govern the Division in its administrative co-operation with other States adopting a similar regulation for the payment of benefits to interstate claimants.

26.02 **Definitions:** As used in this Regulation, unless the context clearly requires otherwise:

(a) "Interstate Benefit Payment Plan" means the plan approved

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ADMINISTRATIVE  
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15 MAY 1953

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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.

(b) "Interstate Claimant" means an individual who claims benefits under the Unemployment Compensation Law of one or more liable States. The term "interstate claimant" shall not include any commuter, provided, however, that the Division may, by arrangement with any adjoining State Employment Security Agency, treat certain commuters as interstate claimants if they reside in geographical areas from which the Division finds that requiring commuters to file their benefit claims in the State of their last employment would cause undue hardship to such claimants. As herein used, the term "commuter" applies to each individual who, before becoming unemployed, customarily commuted from his residence in the agent State to his work in the liable State.

(c) "State" includes Alaska, Hawaii, and the District of Columbia.

(d) "Agent State" means any State in which an individual files a claim for benefits from another State.

(e) "Liable State" means any State against which an individual files, through another State, a claim for benefits.

(f) "Benefits" means the compensation payable to an individual with respect to his unemployment, under the unemployment compensation law of any State.

(g) "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. With respect to an individual attached to his regular employer, week of unemployment means the seven-consecutive-day period prescribed by the agent State with respect to his employer.

#### 26.03 Registration for Work:

(a) Each interstate claimant shall be registered as unemployed and 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.

#### 26.04 Exhaustion of Credits in Agent State and Order of Succession of Liable States:

(a) If a claimant is qualified for benefits under the unemployment compensation laws of two or more States, his claims shall be forwarded to and his benefits shall be paid by these States in inverse

order to that in which such benefit rights were earned, with the following exception: If the claimant is qualified for benefits under the unemployment compensation law of the State where he is, he may either file against and exhaust or otherwise terminate those rights before filing an interstate claim, or he may exhaust or otherwise terminate his benefit rights on any interstate claim before filing against the State where he is.

(b) After an interstate claimant has (in accordance with paragraph (a)) been determined to be eligible for benefits by a given State, the agent State shall thenceforth take his claims for benefits solely against such State unless and until his available benefit credits are exhausted or otherwise terminated in such State, at which time paragraph (a) shall again apply. If an intrastate claimant moves to another State in which he is qualified for benefits, he shall continue his claim as an interstate claim against the State from which he moved until his benefits there are exhausted or otherwise terminated prior to his claiming benefits from any other State.

(c) For purposes of this Regulation, benefit credits shall be deemed to be unavailable whenever an individual is not entitled to receive benefits based thereon by reason of seasonal restrictions upon the payment of benefits or a disqualification for an indefinite period or for the entire period in which benefits would otherwise be payable on the basis of such credits, or by reason of cancellation of such credits. Benefit credits shall be deemed to be available during any fixed period of temporary disqualification if in the absence of further disqualification benefits will thereafter be payable on the basis of such credits.

(d) Benefit credits in any State shall be deemed to be unavailable (solely for partial unemployment benefit purposes) if that State does not provide for the interstate payment of partial unemployment benefits.

(e) The order of succession of liable States established by this regulation shall apply only with respect to new claims (notices of unemployment) filed on or after April 1, 1951.

#### 26.05 Claims for Benefits:

(a) Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the Interstate Benefit Payment Plan. Claims shall be filed in accordance with the type of week in use in the agent State. Any adjustments required to fit the type of week used by the liable State shall be made by the liable State on the basis of consecutive claims filed.

(b) Claims shall be filed weekly (except as provided in Subsection 21.01(e) of Regulation 21) in local employment service offices, or by mail in accordance with agent State regulations for intrastate mailed

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claims, or in accordance with the schedule provided by itinerant service.

- (1) With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable State shall, under circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period, late. If a claimant files more than one reporting period late, an initial claim must be used to begin a claim series and no continued claim for a past period shall be accepted.
- (2) With respect to weeks of unemployment during which an individual is attached to his regular employer, the liable State shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent State.

#### 26.06 Determination of Claims:

(a) The agent State shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable State in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent State.

(b) The agent States responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent State shall not refuse to take an interstate claim.

#### 26.07 Appellate Procedure:

(a) The agent State shall afford all reasonable co-operation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(b) With respect to the time limits imposed by the law of a liable State upon the filing of an appeal in connection with a disputed benefit claims, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable State on the date when it is received by any qualified officer of the agent State.

#### 26.08 Extension of Interstate Benefit Payments to Include Claims Taken in and for Canada:

(a) This Regulation shall apply in all its provisions to claims taken in and for Canada.

### REGULATION 27—DISCLOSURE OF INFORMATION FROM THE FILES OF THE STATE EMPLOYMENT SERVICE

#### 27.01 Disclosure of Information:

(a) No disclosure of information obtained at any time from workers, employers, or other persons or groups in the course of administering the State public employment service program shall be made directly or indirectly, except as authorized by this Regulation.

**27.02 Authorized Disclosure of Information:** Disclosure of any such information is authorized in the following cases for the following purposes:

(a) To individual applicants and employers to the extent necessary for the efficient performance of recruitment, placement, employment counseling, and other employment service functions.

(b) To any properly identified claimant for benefits or payments under an unemployment compensation or readjustment allowance law of the Federal Government, or of a State or Territorial government, or of a foreign government with which reciprocal arrangements have been made, or to his duly authorized representative, information which directly concerns the claimant and is reasonably necessary for the proper presentation of his claim.

(c) To any officer or employee of any agency of the Federal Government or of a State or Territorial government, or of a foreign government with which reciprocal arrangements have been made, lawfully charged with the administration of an unemployment compensation or readjustment allowance law, but only for purposes reasonably necessary for the proper administration of such law.

(d) To any officer or employee of any agency of the Federal Government or a State or Territorial government, lawfully charged with the administration of a law providing for old-age assistance, or other public assistance, work relief, pension, retirement, or other benefit payments, but only for purposes reasonably necessary for the proper administration of such law.

(e) To applicants, employers, and the public, general information concerning employment opportunities, employment levels and trends, and labor supply and demand, provided such release or publication does not include information identifiable to individual applicants, employers, or employing establishments.

(f) To individuals, organizations, and agencies or for purposes other than as specified in (a), (b), (c), (d), or (e) above if such disclosure will not impede the operation of, and is not inconsistent with the purposes of, the public employment service program, and is authorized in writing in individual cases by the Director.

#### 27.03 Unauthorized Disclosure of Information:

(a) Nothing contained in this Regulation shall, or shall be construed to, contravene Social Security Administration Regulation No. 1 relating to the disclosure of official records and information.

### REGULATION 28—CLAIMS FOR DISABILITY BENEFITS DURING UNEMPLOYMENT

#### 28.01 Waiver of Registration and Reporting Requirements:

(a) The giving of notice of disability, and the filing of proof of claim for benefits, under R. S. 43:21-4(f), shall dispense with the re-

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quirements of Subsection (a) of said Section 4 with respect to registering for work and reporting at a local employment service office for the period covered by such claim.

**28.02 Time for Filing Proof and Claim for Disability Benefits:**

(a) When a claim is filed under R. S. 43:21-4(f), no credit shall be given for any disability during unemployment commencing more than thirty days prior to the receipt of Form DS-1 (Proof and Claim for Disability Benefits); provided, however, the Director may, for good cause shown, extend the time requirement for filing proof and claim for disability benefits.

**28.03 Payment of Disability Benefits Where An Individual's Most Recent Employing Unit Was Not An Employer As Defined by the Unemployment Compensation Law:**

(a) Where an individual becomes ill or disabled and his most recent employing unit was not an employer as defined by the Unemployment Compensation Law, disability benefits shall be paid to such individual under R. S. 43:21-4(f), if otherwise eligible.

**28.04 Payment of Benefits under R. S. 43:21-4(f) for a Week in Which Both Unemployment and Disability Occurs:**

(a) Where, during a week of unemployment, an individual would be eligible for benefits under R. S. 43:21-4(c) except for his inability to work because of illness or disability during a portion of such week, disability benefits shall be paid to such individual under R. S. 43:21-4(f), provided he is otherwise eligible and out of employment for at least two weeks.

**REGULATION 29—PAYMENT OF BENEFITS FOR WAITING PERIOD**

**29.01 Payment of Benefits for Waiting Period:**

(a) When benefits become payable under Subsections (c) or (f) of R. S. 43:21-4, or a combination of both Subsections, with respect to the third consecutive week next following the waiting period, a claimant shall be eligible to receive benefits as appropriate with respect to the waiting period.

**REGULATIONS**

*in respect to the*

**TEMPORARY DISABILITY BENEFITS LAW**

**REGULATION 30—GENERAL REGULATIONS  
DISABILITY BENEFITS**

**30.01 Definitions:**

(a) The term "Act" as used herein means the Temporary Disability Benefits Law (R. S. 43:21-25 et seq.) .

(b) The term "Base Year" as used herein with respect to a period of disability commencing on or after January 1, 1953 means the fifty-two (52) consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced.

(c) The term "Benefits" as used herein means the disability benefits provided by the Temporary Disability Benefits Law.

(d) The term "Claimant" means an individual who has filed a claim for disability benefits or who has notified the Division or the employer, nominee, designee, trustee, union, association of employees, insurer or organization paying benefits under a private plan that he expects to file such a claim.

(e) The term "Claimant's Authorized Representative" means an individual who represents or acts in behalf of a claimant who is incapable of fulfilling the requirements of filing claims for disability benefits, and who is so authorized by a power of attorney or other authorization satisfactory to the Division. Such authorized representative must file with the Division, on a form prescribed by the Director, a duly sworn affidavit that the claimant, according to information received from the claimant's physician, dentist or chiroprapist, is incapable of making a claim for disability benefits and that he assumes the responsibility of acting in behalf of such claimant in accordance with the Act and these Regulations.

(f) The term "Director" shall mean the Director of the Division of Employment Security in the Department of Labor and Industry.

(g) The term "Disability" or "Disabled" as used herein shall include both mental or physical illness and mental or physical injury.

(h) The term "Employee" shall mean a covered individual as defined in R. S. 43:21-27(b); with respect to any one employer the term shall mean such a covered individual who is in employment, as defined by the Unemployment Compensation Law and Regulations promulgated thereunder, for which he is entitled to remuneration from such employer or who has been out of such employment for less than two weeks and has not become employed by another employer, during such period.

(i) The term "Employer" as used herein shall mean a covered employer as defined in R. S. 43:21-27(a).

(j) The term "Existing Plan" shall mean a plan that provides for the payment of disability benefits and was in effect on June 1, 1948,

and continues beyond January 1, 1949, and to which the employer is obligated to contribute.

(k) The term "Fund" as used herein shall mean the State Disability Benefits Fund, as set forth in R. S. 43:21-46.

(l) The term "Insurer" shall mean any insurance company duly authorized to do business in the State of New Jersey.

(m) The term "Private Plan" as used herein shall mean a private plan approved by the Division.

(n) The term "Proof and Claim for Disability Benefits" means the proof of disability and claim for benefits initially filed with respect to a period of disability on a form prescribed by the Director.

(o) The term "Supplemental Proof and Claim for Disability Benefits" means the proof and claim certifying to the continuance of disability on a form prescribed by the Director.

**30.02 Exemptions:** Any employee desiring to secure exemption from the provisions of this Act shall make application therefor on a form and in a manner prescribed by the Director.

**30.03 Service of Papers:** Any and all notices, orders, communications and other processes and papers of this Division, may be served personally or by registered mail or by telegram or by leaving a copy thereof at the principal office or place of business in New Jersey of the person required to be served. Such service shall constitute due notice. The verified return by the individual so serving the same, setting forth the manner of such service shall be proof of the same, and the return post-office receipt or telegram receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same.

#### REGULATION 40—PRIVATE PLANS (General Provisions)

##### 40.01 Extent of Coverage:

(a) All employees of the employer shall be covered by one or more private plans, without restrictions or exclusions, except that, subject to the approval of the Division, any private plan may exclude employees of a separate unit, craft, organization, plant, department or establishment, or other class or classes of employees. Application for such exclusion shall be submitted on a form and in a manner prescribed by the Director. The Division may approve the exclusion of a class or classes of employees provided it does not appear to the Division that such exclusion will result in a substantial selection of risk adverse to the State plan. For the purposes of this Regulation, the employees of an employing unit (not a subject employer) performing services for an employer, as defined in R. S. 43:21-19(g) shall be considered a class of employees which may be excluded.

(b) Employees excluded from a private plan shall be covered

under the State plan and the employer shall be liable for the deduction and payment of workers' contributions and employer's contributions, as required by R. S. 43:21-7.

(c) All proposed private plans shall be submitted for review and approval by the Division. An employer failing to secure the approval of a private plan shall be deemed to be covered under the State plan and the employer shall be liable for the deduction of workers' contributions and payment of workers' and employer's contributions to the Fund as required by R. S. 43:21-7 until such date as a private plan is effective.

(d) An employee who ceases to be covered by a private plan, whether by termination of the plan, changing employers or for any other reason, shall, if otherwise eligible, become entitled to disability benefits from the Fund.

##### 40.02 Benefits:

(a) An employee shall not be entitled to any benefits from the Fund with respect to any period of disability commencing while he is covered under a private plan.

(b) An employee shall not be paid any benefits for disability during unemployment (R. S. 43:21-3, 4) for any period of disability commencing while he is a "covered individual" as defined in R. S. 43:21-27(b).

(c) The benefits provided by a private plan shall be set forth in the plan both as to eligibility requirements and amounts payable.

(d) If application for benefits is made under the State Plan and it is determined that the claim should have been made under a private plan, an employee shall not be deprived of benefits under the private plan for failure to give timely notice and proof of disability provided that:

- (1) the application to the State plan would have been timely notice to the private plan if it had been then made, and
- (2) proof of disability is furnished under such private plan within the period required therein or within thirty (30) days after the employee has notice that the claim should have been made thereunder.

(e) If an employee is paid benefits under a private plan, the amount of such benefits shall not be deducted from the amount of benefits to which he may be entitled under the State plan, or under R. S. 43:21-3 and R. S. 43:21-4 as an unemployed claimant, for a subsequent period of disability. If an employee is paid benefits under the State plan, the amount of such benefits shall not be deducted from the amount of benefits to which he may be entitled under a private plan, or under R. S. 43:21-3 and R. S. 43:21-4 as an unemployed claimant for a subsequent period of disability.

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(f) If the benefits claimed by an employee or his authorized representative under a private plan are denied, such denial shall be by a written notice to the employee or his authorized representative, giving the reason therefor and stating the employee's rights to a hearing in accordance with the Act. Upon the issuance of such notice, the Division shall be immediately furnished with a copy or facsimile thereof.

**40.03 Frequency of Payments:** The private plan shall provide for payment of benefits to employees weekly, bi-weekly, or at such intervals as the employee is customarily paid wages, unless otherwise approved by the director.

**40.04 Modification:** No reduction in the amount or duration of benefits or increase in the rate of employee contributions shall be made without prior approval of the Division. Approval shall be given if the Division finds that the plan, after such modification, continues to meet the requirements of the Act and these Regulations and, if the employees are to contribute toward the cost of such modified plan, that a majority of the employees covered by the plan have agreed to the modification by written election (by ballot or otherwise) in accordance with these Regulations. The Division shall be given prompt notice of any modification of a private plan, which modification does not require approval under this Section.

**40.05 Proof of Coverage:** Notice, in a form approved by the Director, of the benefits provided by the private plan shall be furnished to the covered employees either by individual certificates or other direct notification at the time of coverage, or by conspicuous and continuous posting at the place of employment.

**40.06 Choice of Physician, Dentist or Chiropodist:** An employee covered under a private plan shall have the right to choose his own attending physician, dentist, or chiropodist, but he may be required to submit, not more often than once a week, to an examination by a physician, dentist, or chiropodist designated by the employer, insurer or organization paying benefits.

**40.07 Non-Profit Provision:** No employer, no union or association representing employees and no person acting in behalf of any of the foregoing shall so administer or apply the provisions of a private plan as to derive any profit therefrom.

**40.08 Appeals:** If the claimant of any employee under a private plan is denied, in whole or in part, by an employer, insurer or organization paying benefits or, if he shall be unable to agree with the employer, insurer or organization paying benefits as to benefits thereunder, such claimant may appeal from such determination or denial.

(a) A complaint, which shall constitute an appeal, shall be filed by the claimant, in person or by mail, with the Division, within one year after the beginning of the period for which benefits are claimed.

Upon receipt thereof, the Division shall conduct an investigation and such informal hearings as it may deem necessary to determine the facts and settle the issues.

(b) If the issues raised are not settled, they shall be referred to a Hearing Officer, who shall afford the interested parties thereto a reasonable opportunity for a full, fair and impartial hearing, in accordance with procedure relating thereto required under Regulation 48.

## REGULATION 41—APPROVAL OF PRIVATE PLANS

### 41.01 Applications:

(a) An employer desiring to establish a private plan for the payment of benefits to employees, shall file an application on a form and in a manner prescribed by the Director. In requesting the form, the employer shall inform the Division whether the benefits will be provided by a contract of insurance, or by an agreement between the employer and a union or association representing his employees, or by the employer as a self-insurer.

(b) If two or more employers desire to have their private plans insured by a single policy of insurance, either by mutual agreement or by agreement as set forth in paragraph (a) above, each shall file an application for approval on a form and in a manner prescribed by the Director, designating a nominee, designee, trustee or one of them as his duly authorized agent for the purposes of this Act.

**41.02 Minimum Requirements:** Each private plan, in order to secure Division approval, shall provide to the employees covered thereby rights equal at least to those set forth in R. S. 43:21-37 to R. S. 43:21-42 inclusive, by assuring that:

(a) All employees of the employer, except as provided elsewhere in these Regulations, shall be covered by the private plan with respect to any disability commencing while the plan is in effect.

(b) The private plan does not impose restrictions on, or provide exclusion from eligibility for benefits in respect to any employee covered thereunder, in such manner as to deny benefits which would be payable to the employee under the State plan, but for his inclusion in the private plan.

(c) Except as provided for in Regulation 41.03, the benefits payable to each employee covered thereunder shall be at least equal, in both weekly amount and duration, to those which would be payable to the employee under the State plan, but for his inclusion in the private plan.

### 41.03 Concurrent Coverage:

(a) A private plan shall not preclude simultaneous or concurrent coverage by reason of an individual's employment with two or more

employers. Such employee shall receive not less than the benefits payable under the State plan both as to benefit amount and duration.

(b) For the purposes of this Section (41.03) with respect to periods of disability commencing on or after January 1, 1953, a covered individual is deemed to be in "concurrent employment" if he is in employment with two or more employers during some part of the last calendar day he was in employment preceding the commencement of a period of disability; the term "concurrent employers" is deemed to mean the covered employers with whom such individual was in employment on such last day of employment.

- (1) If an employee is in concurrent employment with two or more employers of whom only one has a private plan, under which such employee is covered, then the employee shall be eligible to receive, under such private plan, benefits not less than he would be eligible to receive if covered only under the State plan with respect to all employment, and no benefits shall be payable under the State plan for disability commencing while he is covered under such private plan.
- (2) If an employee is in concurrent employment with two or more employers having private plans, under which such employee is covered, each such private plan shall pay not less than the full amount the employee would be eligible to receive if covered under the State plan, except that any such private plan may take into account coverage under other private plans on the following basis: the benefits payable under such private plans to such employee may be apportioned among the plans in the same proportion that such employee earned wages from such concurrent employers during the eight calendar weeks immediately prior to the commencement of his disability but in no event shall the employee receive less than the benefits to which he would be entitled under the most favorable plan, both as to weekly amount and duration.

**41.04 Employee Consent:** If employees are required to contribute to the cost of a private plan, the employer shall submit, in writing, to his employees a brief summary of the provisions of the plan, including the weekly benefit rate, the maximum amount and duration of benefits and the contributions required from the employees with respect to the benefits to be provided thereby. A majority of the employees to be covered must agree by written election (by ballot or otherwise) to the establishment of the plan which shall include the worker's contribution required. Evidence of their consent shall be shown on the application for approval.

**41.05 Evidence of Consent:**

- (a) There shall be submitted on the application for approval a

statement showing the total number of eligible employees in employment by the employer and the number of employees who agreed to the plan, together with the individual ballots or documents bearing the employees' signatures of consent. The ballots or documents of consent, after review by the Division, shall be returned to the employer.

(b) The results of such election shall be posted promptly and the records pertaining thereto shall be maintained by the employer and be available for inspection by Division representatives during the existence of the private plan.

**41.06 Certificate of Approval—Effective Date:** The Division shall issue a "Certificate of Approval of Private Plan" (Form DP-5) which shall constitute evidence of approval of the plan by the Division. The private plan shall take effect on the first day of the calendar quarter next following approval date or at such earlier date as may be requested by the employer and approved by the Division.

**REGULATION 42—TERMINATION OF PRIVATE PLANS**

**42.01 Withdrawal of Certificate of Approval:** A certificate may be withdrawn or revoked upon notice and opportunity for hearing if the Division finds:

- (a) That there is danger that benefits accrued or to accrue will not be paid; or
- (b) That the security for such payment is insufficient; or
- (c) That there has been a failure to comply with the terms and conditions of the plan; or
- (d) That there has been a failure to pay benefits to eligible claimants promptly; or
- (e) That in the case of an insured private plan, the insurance company has given notice of the cancellation of the policy of insurance thereunder; or
- (f) That the employer, his duly authorized agent, the union or association representing the employees or any person acting in behalf of any of the foregoing are deriving a profit in instituting or administering the plan; or
- (g) That the employer, or insurer or any other party responsible for the payment of benefits, as the case may be, has failed to comply with the Act and Regulations; or
- (h) Other good cause.

A Certificate of Approval may be withdrawn or revoked effective as of the date of the occurrence of the condition, violation, event or omission forming the basis for such withdrawal or revocation, or at any subsequent date which in the judgment of the Director or his authorized representative, shall be necessary for the protection

of the benefit rights of the employees theretofore covered by the plan. The Division shall give the employer, the insurer or organization paying benefits, and all interested parties notice of revocation or withdrawal of the Certificate of Approval and an opportunity for a hearing.

**42.02 Termination on Petition by Employees:** Upon receipt by the Division of a petition to terminate a private plan, signed by not less than ten per centum (10%) of the employees covered by the private plan, the Division shall order an election, after thirty (30) days' written notice to the employer. No such election shall be required more often than once in any twelve (12) consecutive months. The Division shall, whenever it deems necessary, supervise such election.

**42.03 Eligibility to Petition:** An employee, to be eligible to sign any petition requesting an election to discontinue a private plan, shall be in the employ of the employer as of the date of the petition, and covered by the plan. The form of the petition requesting an election shall be prescribed by the Director.

**42.04 Eligibility to Vote:** An employee, to be eligible to vote in any election to discontinue a private plan, shall be in the employ of the employer as of the date of the election and covered by the plan.

**42.05 Requirements of Election:** Any election to discontinue a private plan shall be in accordance with this Regulation. The election shall be by written ballot but the Director may order a secret ballot if the facts so warrant. The ballot shall be so worded as to give each employee voting an opportunity to vote for or against the discontinuance of the private plan. The time and place of the election shall be convenient to the employees, and on not less than thirty (30) days' written notice by the employer to the employees. The notice of the election and the results thereof shall be given to the employees affected by one of the following methods:

(a) By posting on bulletin boards in the employer's establishment or place of business for a period of not less than thirty (30) days;

(b) By mail addressed to each employee;

(c) Personal service.

A record of the method used shall be kept by the employer.

**42.06 Retention of Election Records:** The records pertaining to any election to discontinue a private plan shall be retained by the employer and shall be available for inspection by Division representatives for a one-year period from the date of termination.

**42.07 Certification of Election Results:** A statement shall be submitted forthwith by the employer to the Division showing the total number of employees eligible to vote, and the number of employees who voted for and against termination of the plan.

**42.08 Discontinuance—Employees' or Employer's:** As provided in the Act, a private plan shall be discontinued when the Division withdraws its approval thereof upon being furnished satisfactory evidence that a majority of the covered employees have made election in writing to discontinue such plan. An employer may discontinue a private plan upon proper notice to the Division and to the covered employees.

**42.09 Responsibility of Employer on Withdrawal of Certificate of Approval:** The employer shall be liable for the deduction of workers' contributions and payment of workers' and employer's contributions, as required by R. S. 43:21-7, with respect to wages paid for employment subsequent to the effective date of withdrawal or revocation of the Certificate of Approval, unless the Division has approved another private plan to become effective on the day immediately following.

Form DP-22 "notice of Withdrawal of Approval of Private Plan" shall be conspicuously posted for a period of not less than thirty (30) days at or in the employer's factory, establishment or other premises at which the workers, who were covered under the private plan, are employed, as evidence of the termination of that plan.

#### REGULATION 43—EXISTING PLANS (This regulation has ceased to be operative)

#### REGULATION 44—INSURED PRIVATE PLANS

**44.01 Insurer Liability:** A policy of insurance providing for the payment of benefits under a private plan shall provide that the insurer shall remain liable for the payment of benefits to any employee covered by the policy and the private plan for any period of disability commencing, during the continuance of the private plan, after the policy became effective and prior to the termination of the policy. At least sixty (60) days' notice shall be given to the Division by the insurer or the policy holder before termination of the policy becomes effective, except that, if the policy is being terminated by reason of a change of insurer, this requirement may be waived. If a policy is being terminated for non-payment of premium, at least fifteen (15) days' notice shall be given to the Division before termination of the policy becomes effective.

**44.02 Mandatory Provision:** Each contract of insurance providing for the payment of benefits under a private plan shall contain a clause or clauses guaranteeing that the benefits meet the requirements of Regulation 41.02.

### REGULATION 45—FINANCIAL RESPONSIBILITY

**45.01 Security Required:** The security required by the Division from an employer whose private plan does not provide for the assumption of the liability to pay benefits by an insurer, duly authorized and admitted to do business in this State, shall be in the form of a cash deposit, a bond of an admitted surety insurer conditioned on the payment of obligations under the plan, bearer bonds issued or guaranteed by the United States of America or issued by this State, the amount to be determined by the Division upon the basis of the size of the payroll, the class or classes of risks contemplated, the financial standing of the employer and any additional factors which the Division may deem proper. The amount shall not be less than one-half of the contributions which would have been paid by the employees to be covered by the private plan during the previous year, or one-half of the estimated contributions of such employees for the ensuing year, whichever is greater.

**45.02 Exemption:** Exemption from the requirement of Regulation 45.01 shall be granted to any employer who:

- (a) Is exempt from insuring his Workmen's Compensation liability, as provided by law, or
- (b) Satisfies the Division as to his financial responsibility to pay the benefits provided by his private plan by furnishing a complete, current financial statement and such other proof as may be acceptable to the Division.

### 45.03 Disposition of Security Upon Termination:

(a) The security required by R. S. 43:21-54 shall be applied by the Division to the payment of any unpaid obligations under the private plan. Upon termination of a private plan, which does not provide for the assumption by an admitted insurer of the liability to pay benefits, or upon withdrawal of approval of such private plan, the Division shall retain the security theretofore deposited, for the purpose of securing the payment of the obligations of the private plan. Upon the expiration of all benefit claims outstanding after the lapse of five (5) complete calendar quarters following the effective date of termination or withdrawal of approval, the Division shall make a final assessment of the charges against the employer as provided in the Act and these Regulations.

(b) If the amount of such assessment is not paid within thirty (30) days after date of notice thereof, the Division may collect the amount of the assessment out of the security on deposit with it, or may call upon the surety insurer for payment. Any security thereafter remaining shall be returned to the employer or his legal representative or his assignee; or the surety insurer paying the amount of such assessment shall thereupon be discharged of its obligation under the bond.

(c) The Division may make a partial return of the security at an earlier date if it finds that such security is in excess of that required.

### REGULATION 46—REPORTS AND RECORDS (PRIVATE PLAN)

#### 46.01 Exchange of Information:

(a) If an employee's weekly benefit amount determined under the benefit provisions of an employer's private plan with respect to a period of disability commencing on or after January 1, 1953 is less than the maximum weekly benefit amount payable under the State plan (\$30.00) and such weekly benefit amount has been computed on a basis different from that provided for covered individuals under the State plan with respect to periods of disability commencing on or after January 1, 1953, the weekly benefit amount shall be recomputed at two-thirds (2/3) of the employee's "average weekly wage"; such average weekly wage to be determined on the basis of his total earnings from the employer during the base weeks in the eight (8) calendar weeks immediately preceding the calendar week in which his disability commenced divided by the number of such base weeks.

If such recomputed weekly benefit amount is less than the maximum weekly benefit amount payable under the State plan and the computation of the "average weekly wage" for such recomputation yields a result which does not truly represent the employee's current weekly rate of earnings with the employer, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the weekly wages of the employee earned from all covered employers during the eight (8) base weeks immediately preceding the calendar week in which the employee's disability commenced. When requesting such information, such payer shall furnish the Division with the following information:

- (1) Name and social security number of the employee;
- (2) Date on which the disability commenced;
- (3) The names and addresses of such other employers, from whom the employee alleges to have earned wages immediately preceding his disability, as may be necessary to determine all wages earned in the required eight (8) base weeks;
- (4) The weekly earnings of the employee from the employer during each of the calendar weeks in the fifty-two (52) calendar weeks immediately preceding his disability, if any.

(b) If the private plan of an employer provides as a condition of eligibility for benefits with respect to a period of disability commencing on or after January 1, 1953, that an otherwise eligible em-

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ployee shall have established at least seventeen (17) or a lesser number of base weeks within the fifty-two (52) calendar weeks preceding the week in which his period of disability commenced and the employee has not established such base weeks from his employment with the employer, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

- (1) Name and social security number of the employee;
- (2) Date on which the disability commenced;
- (3) The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of not less than fifteen dollars (\$15.00) immediately preceding his disability, as may be necessary to determine the required number of base weeks;
- (4) The number of calendar weeks in the fifty-two (52) calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than fifteen dollars (\$15.00) from the employer.

(c) If the private plan of an employer provides, with respect to periods of disability commencing on or after January 1, 1953, that the maximum total benefits payable to any eligible employee in any twelve-month period may be computed as an amount equal to three-fourths (3/4) of the employee's base weeks occurring in the fifty-two (52) consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced multiplied by the employee's weekly benefit amount and it appears that such provision will be applicable with respect to any period of disability because the employee has not established a sufficient number of base weeks from his employment with the employer to provide total benefits at least equal to twenty-six (26) times his weekly benefit amount, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

- (1) Name and social security number of the employee;
- (2) Date on which the disability commenced;
- (3) The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of

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not less than fifteen dollars (\$15.00) immediately preceding his disability, as may be necessary to determine the required number of base weeks;

- (4) The number of calendar weeks in the fifty-two (52) consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than fifteen dollars (\$15.00) from the employer.

**46.02 Notice Required from Employers:** Within seven (7) days after the mailing of a request for information with respect to a period of disability commencing on or after January 1, 1953, each employer having a private plan shall furnish the Division with any information requested or known to him which may bear upon the eligibility of the claimant.

**46.03 Reports by Self-Insurers:**

(a) On or before the thirtieth (30th) day following the close of each calendar quarter during which a self-insured private plan is in effect, the employer shall, on a form prescribed by the Division, file a statement showing:

- (1) The amount of benefits claimed during the quarter;
- (2) The amount of benefits paid during the quarter;
- (3) The amount of benefits accrued but not paid at the end of the quarter;
- (4) Such other information as the Division may require with respect to the financial ability of the self-insurer to meet his obligations under the plan.

(b) On or before the thirtieth (30th) day following the close of each calendar year during which a self-insured private plan is in effect, the employer shall, on a form prescribed by the Division, file a report showing:

- (1) The amount of funds available at the beginning of that year for payment of disability benefits;
- (2) The amount contributed by workers during that year;
- (3) The amount contributed by the employer during that year;
- (4) The amount of disability benefits paid during that year;
- (5) Direct costs of administration of plan during that year.

**46.04 Reports by unions, associations of employees, nominees, trustees or organizations which have undertaken to pay the benefits provided under a private plan:**

(a) On or before the thirtieth (30th) day following the close of each calendar quarter, each union, association of employees, nominee, trustee or organization which has assumed the liability to pay the disability benefits required under one or more private plan (which

benefits are not guaranteed by a contract of insurance of an insurer duly authorized and admitted to do business in this State) shall, on a form prescribed by the Division, file a statement showing:

- (1) The amount of such disability benefits claimed during that quarter;
- (2) The amount of such disability benefits paid during that quarter;
- (3) The amount of such disability benefits accrued but not paid during that quarter;
- (4) Such other information as the Division may require with respect to the financial ability of the union, association of employees, nominee, trustee or organization to meet their obligations under the plan.

(b) On or before the thirtieth (30th) day following the close of each calendar year, each union, association of employees, nominee, trustee or organization which has assumed the liability to pay the disability benefits required under one or more private plans (which benefits are not guaranteed by a contract of insurance of an insurer duly authorized and admitted to do business in this State) shall, on a form prescribed by the Division, file a report showing:

- (1) The funds available at the beginning of that year for payment of such disability benefits;
- (2) The amount of contribution for such disability benefits made during that year by the employer or employers whose private plan or plans provide for the payment of such disability benefits out of such Funds;
- (3) The amount, if any, of contributions made, during that year, for such disability benefits, by workers covered under such private plan or plans;
- (4) The amount of such disability benefits paid, during that year, to workers covered under such private plan or plans;
- (5) Direct costs of administration, during that year, of such private plan or plans, expended from such Funds.

**46.05 Reports by Insurance Companies:** On or before the thirtieth (30th) day of June following the close of each calendar year, each insurance company which has assumed the liability to pay the disability benefits required under one or more private plans shall, on a form prescribed by the Division, file a report showing:

- (a) Premiums earned during that year with respect to such private plans;
- (b) Dividends to holders of policies providing the benefits of such private plans;
- (c) Benefit losses incurred under such private plans;
- (d) Expenses incurred with respect to such private plans.

## REGULATION 47—ASSESSMENTS

**47.01 Unemployment Disability Account Deficit:** The term "Unemployment Disability Account Deficit" means any negative balance between the credits and debits of the account as determined by the Act. If the accumulated deficit at the end of any calendar year after interest and other earnings have been credited in accordance with the Act exceeds two hundred thousand dollars (\$200,000.00), such deficit shall be assessed and shall be collected under the provisions of R. S. 43:21-14, except that interest shall not accrue on any such assessment until thirty (30) days after the date of notice of such assessment.

**47.02 Assessment of Costs of Administration:** Any assessment under the provisions of R. S. 43:21-48 shall be collected under the provisions of R. S. 43:21-14, except that interest shall not accrue on any such assessment until thirty (30) days after the date of notice of such assessment.

**47.03 Assessment of Amount of Refund of Workers' Contributions Applicable to Private Plans:** The portion of the aggregate amount of refunds to workers during any calendar year pursuant to R. S. 43:21-7(d) (3) to be assessed against private plans shall be determined by multiplying the aggregate amount of such refunds by the ratio of taxable wages involved in such refunds and paid by employers to employees covered under private plans to the total taxable wages involved in such refunds and paid by all employers. Such amount shall be prorated among the applicable private plans in the proportion that the wages covered by each plan bears to the total private plan wages involved in such refunds. The amount so prorated to a private plan shall be assessed against the employer, or the insurer if the insurer has indemnified the employer with respect thereto, and shall be collected under the provisions of R. S. 43:21-14 except that interest shall not accrue on such assessments until thirty (30) days after the date of notice of such assessment. The amounts so recovered by the Division shall be paid into the State Disability Benefits Fund.\*

**47.04 Liability of Successor Employer:** Any employer who acquires the organization, trade, assets or business, in whole or in part, whether by merger, consolidation, sale, transfer, descent or otherwise, from an employer liable for any assessment made under R. S. 43:21-7(d) (3), R. S. 43:21-46 and R. S. 43:21-48 shall likewise be liable for such assessment.

**47.05 Continuation of Plan—Successor Employer:** If there is a change in the employer and the successor employer assumes the obligations and liability of the predecessor under the plan, the plan shall be transferred to the successor, if:

\* Application for workers' refunds are initiated under Regulation 15.

(a) The workers to be covered by the plan immediately after the succession are not required to contribute to the cost of the plan; or

(b) The class or classes of workers covered by the plan immediately prior to the succession constitute a majority of the workers in the same class or classes employed by the successor immediately after the succession; or

(c) A majority of the workers in the class or classes covered by the plan in the employ of the successor immediately after the succession give their written consent to the plan; or

(d) The plan is limited to the separate unit, plant, department or establishment operated by the predecessor and the provisions of paragraph (a), (b), or (c) above are met with respect to such separate unit, plant, department or establishment.

#### REGULATION 48—HEARINGS (PRIVATE PLAN)

##### 48.01 Application of Regulation:

The filing of a complaint by a person claiming benefits under a private plan, and proceedings relating thereto, shall be governed in accordance with this Regulation.

The Hearing Officer shall be the individual designated to conduct a hearing pursuant to R. S. 43:21-50.

A complaint, which shall constitute an appeal, shall be filed by a person claiming benefits under an approved private plan, on a form and in a manner prescribed, setting forth the information required.

##### 48.02 Manner of Filing Complaint:

The complaint shall be filed with the Division, by or on behalf of a person claiming benefits, personally or by mail, within one (1) year after the beginning of the period for which benefits are claimed.

##### 48.03 Time of Filing:

Any complaint shall be deemed filed on the day it is delivered to the office of the Disability Insurance Service at 20 West Front Street, Trenton, or if mailed, the complaint shall be deemed filed on the postmarked date appearing on the envelope in which the complaint is mailed, provided, postage is prepaid and the envelope is properly addressed.

##### 48.04 Informal Hearing:

The Division shall thereupon conduct such investigations and informal hearings as may be necessary to determine the facts and settle the issues and, pending a disposition, a formal hearing shall not be scheduled.

##### 48.05 Notice of Formal Hearing:

(a) If the issues raised are not settled, a formal hearing shall be scheduled.

(b) Written notices of the time and place of any hearing shall be given to the claimant, employer, insurer or organization paying benefits, and all other parties in interest at least five (5) days before the date of hearing but a shorter notice may be given if not prejudicial to the parties.

(c) A party to whom a notice of hearing has been sent shall be ready and present with all evidence and necessary witnesses at the time and place specified and shall be prepared to dispose of all issues and questions involved in the proceeding.

(d) A notice of hearing may be served personally or by registered mail or by telegram upon a party or his duly authorized representative.

##### 48.06 Conduct of Hearings:

(a) The hearing before the Hearing Officer shall be conducted in such order and manner as may provide a fair and impartial hearing to ascertain the facts and determine the rights of the parties.

(b) At such hearing, evidence exclusive of ex parte affidavits, may be produced by any party, but the Hearing Officer shall not be bound by the rules of evidence.

(c) The Hearing Officer shall open the hearing by ascertaining the facts and summarizing the issues involved on the record.

(d) Any individual may appear for himself or any party may be represented by an attorney at law of the State of New Jersey. Appearances for and on behalf of any party other than the Division at formal hearings or any proceeding subject to judicial review shall be limited to an attorney at law of the State of New Jersey.

(e) Any individual who is a party, or any attorney representing a party, may examine or cross-examine witnesses, inspect documents and explain or rebut any evidence. The Hearing Officer may examine each party or witness to such extent as he deems necessary.

(f) Any number of proceedings before the Hearing Officer may be consolidated for the purpose of hearing when the facts and circumstances are similar in nature and the rights of any party will not be prejudiced thereby. Notice of such consolidation shall be given to the parties or their representatives.

(g) All testimony at any hearing shall be under oath or affirmation and recorded, but need not be transcribed unless the order on the disputed claim is to be reviewed.

(h) The Hearing Officer may take additional evidence if he deems it necessary, provided the parties shall be given proper notice of the time and place of hearing.

(i) The parties may stipulate the facts and issues involved and based thereon the Hearing Officer may make a determination and an order disposing of the issues which shall be final and binding.

**48.07 Dismissal of Complaint:**

(a) After due notice of the time and place of hearing or an adjourned hearing, if any party fails or neglects to appear, the issues may be decided upon the basis of the evidence available, the complaint may be dismissed or evidence may be taken from the parties and witnesses appearing and the case disposed of in accordance with such evidence. A complaint may be dismissed for failure to prosecute without good cause within a reasonable time. All parties shall be notified of the dismissal and the reasons therefor.

(b) Any complaint dismissed by reason of the failure to appear at a scheduled hearing or for failure to prosecute may be reconsidered by the Hearing Officer provided good cause is shown for such failure and an application for reopening the proceeding is made within ten (10) days after mailing or notification of the order of dismissal.

(c) A pending complaint, with the approval of the Hearing Officer, may be withdrawn by the complainant, in writing, or orally at the time of hearing. All parties to the proceeding shall be notified of the withdrawal.

**48.08 Rendition of Decision:**

(a) Upon the completion of any hearing, the Hearing Officer shall promptly make a determination of facts, and an Order in writing, signed by him, disposing of the issues presented, which shall be final and binding on the claimant, the employer, the insurer, the organization paying benefits and all other parties. The Order shall set forth a statement of the facts involved, the reasons for the Order and the Order.

(b) A copy of such Order shall be served upon each of the parties by registered mail, addressed to his last-known address.

(c) The Order of the Hearing Officer shall be final and benefits paid or denied in accordance therewith unless any party feeling aggrieved by the action of the Hearing Officer applies to the Superior Court to review his determination within thirty (30) days after the receipt of the Hearing Officer's Order. In the event of such application for review, the record of the proceedings shall be transcribed and the entire record of the disputed claim shall be duly certified to the Superior Court. The cost of recording and transcribing the proceedings, and of the preparation of such record, shall constitute a cost of administering this Act.

**48.09 Correction of Determination:**

On application duly made or on his own motion, the Hearing Officer may revise a determination of facts and the Order, for the purpose of correcting clerical or typographical errors.

**48.10 Inspection of Records:**

(a) Orders for the production or inspection of the records of the

Division may be issued in any proceeding before the Hearing Officer but only to the extent necessary for the purpose of the proceeding and to enable any party to the proceeding to fully discharge his obligation or safeguard his rights under the Act.

(b) A request for the production or inspection of the records shall be addressed to the Hearing Officer, and shall state clearly the nature of the information desired and the reason therefor. The Hearing Officer may determine whether or not the request shall be granted and, if granted, inspection of the records may be allowed or a copy of the records furnished.

**48.11 Issuance of Subpoenas:**

(a) The Hearing Officer shall have the power to administer oaths, take depositions, issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records.

(b) Subpoenas to compel the attendance of witnesses or production of records shall be issued by the Hearing Officer only upon the showing of the necessity therefor by the party applying for the issuance of such subpoena.

(c) Witness fees at the rate of fifty cents (\$.50) for each day of attendance upon a hearing in response to a subpoena to testify and mileage at the rate of seven cents (\$.07) per mile from the residence of the witness to the place of hearing and return, shall be paid upon presentation of a voucher signed by the individual entitled thereto and properly certified by the Hearing Officer before whom the individual appeared as a witness.

(d) Witness fees at the rate of one dollar (\$1.00) for each day of attendance upon a hearing in response to a subpoena duces tecum and mileage at the rate of seven cents (\$.07) per mile from the residence of the witness to the place of hearing and return, shall be paid upon presentation of a voucher signed by the individual entitled thereto and properly certified by the Hearing Officer before whom the individual appeared as a witness.

**REGULATION 50—STATE PLAN****50.01 Extent of Coverage:**

(a) A claimant shall not be entitled to any benefits from the Fund with respect to any period of disability commencing while he is covered under a private plan.

(b) A claimant shall not be paid any benefits under R. S. 43:21-3 and R. S. 43:21-4 for any period of disability commencing while he is a "covered individual" as defined in R. S. 43:21-27(b).

(c) An individual who is covered by a private plan or is separated from his employment for a period of two (2) weeks or more

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immediately prior to disability shall not be entitled to any benefits under the State plan.

(d) If application for benefits is made under a private plan or for disability during unemployment (R. S. 43:21-3,4) and it is determined that the claim should have been made under the State plan, a claimant shall not be deprived of benefits under the State plan for failure to give timely notice and proof of disability provided that:

- (1) The application to the private plan or for disability during unemployment (R. S. 43:21-3,4) would have been timely notice to the State plan if it had been then made, and
- (2) Proof of disability is made under the State plan not later than the time prescribed by the Act.

(e) If a claimant is paid benefits under the State plan, the amount of such benefits shall not be deducted from the amount of benefits to which he may be entitled for a subsequent period of disability under a private plan, or for disability during unemployment (R. S. 43:21-3,4). If a claimant is paid benefits under a private plan, the amount of such benefits shall not be deducted from the amount of benefits to which he may be entitled for a subsequent period of disability under the State plan, or for disability during unemployment (R. S. 43:21-3,4).

(f) If a claimant shall refuse to submit to a physical examination by a physician, dentist or chiroprapist designated by the Director he shall be disqualified from receiving all benefits for the period of disability in question, except as to benefits already paid.

(g) If a physical examination of a claimant is required, the Superintendent of the Disability Insurance Service shall authorize such examination to be made by a legally licensed physician, dentist or chiroprapist. Upon submission of a written report of the examination to the Superintendent, a fee not exceeding seven dollars and fifty cents (\$7.50) for each such examination shall be paid to the examining physician, dentist or chiroprapist, which fee shall be charged to the administration account. In cases requiring the services of a specialist or a diplomate, or in cases requiring clinical tests supporting a diagnosis, the Superintendent shall, in his discretion, fix the fees for such services or tests, the same not to exceed the fees professionally established for such services or tests by the appropriate State or County organization, whichever is the lesser.

#### 50.02 Notice and Proof of Disability:

(a) A written notice of disability on which a claim for benefits under the State plan is based, shall, within thirty (30) days after the commencement of the period of disability, be furnished to the Division by or on behalf of the person claiming benefits. The notice need not be on any prescribed form but shall state claimant's full

name, address and social security number, as well as the date on which claimant was too sick (or disabled) to work.

The filing of Form DS-1 (Proof and Claim for Disability Benefits) accompanied by the certification of the attending physician, dentist or chiroprapist, as required hereinafter, shall constitute notice of disability.

(b) Proof of disability on which a claim for benefits under the State plan is based shall be furnished by any claimant who expects to be or has been totally unable to perform the duties of his employment for a period of eight (8) or more consecutive days and is under the care of a legally licensed physician, dentist or chiroprapist. A claimant's authorized representative may furnish the proof of disability and file a claim for benefits on behalf of the claimant. The proof and claim accompanied by a certification of the attending physician, dentist or chiroprapist, shall be furnished to the Division, on Form DS-1 (Proof and Claim for Disability Benefits) not later than thirty (30) days after the commencement of the period of disability for which benefits are claimed.

"Supplemental Proof and Claim for Disability Benefits" (Form DS-7B) shall be filed as proof of continued disability, when requested by the Division.

(c) The failure to furnish a written notice of or proof of disability within the time or manner required by the Act and these Regulations shall not invalidate or reduce any claim, if it shall be shown to the satisfaction of the Division not to have been reasonably possible to furnish notice or proof and that such notice or proof was furnished as soon as reasonably possible. If such notice or proof is not furnished, the claim shall be reduced and limited to the period commencing thirty (30) days prior to the receipt of the notice or proof of disability, the first seven (7) days of which period shall not be compensable.

#### 50.03 Filing of Claims for Benefits:

(a) All claims and other required documents relating thereto may be filed by mail except in those cases where the claimant is notified by the Division that a personal appearance or examination will be required. Filing by mail shall be deemed complete at the time of deposit in the mail, in a sealed envelope, with postage paid, addressed to the Division.

(b) Disability benefits shall be payable to any claimant while outside of this State, provided he complies with the Act and these Regulations. In such case the attending physician, dentist or chiroprapist shall be licensed under the laws applicable to the place where the claimant is receiving treatment.

**50.04 Reduction of Benefits:**

The amount of benefits otherwise payable to a claimant under the State plan for any week of disability, or part thereof, shall be reduced by the amount paid concurrently under any governmental or private retirement, pension or permanent disability benefit or allowance program to which his most recent employing unit contributed on his behalf. If such latter benefits are being paid on a monthly basis, the amount thereof to be deducted for each day of disability shall be determined as one-thirtieth (1/30) of such monthly amount. If such latter benefits are being paid on a weekly basis, the amount thereof to be deducted for each day of disability shall be determined as one-seventh (1/7) of the weekly amount.

The amount of benefits payable to a claimant under the State plan for any week of disability, or part thereof, shall not be reduced by the amount of benefits payable under any program as mentioned above, unless one (1) or more payments thereunder have been received by the claimant prior to the date on which the check in payment of benefits under the State plan is issued.

**50.05 Concurrent Coverage:**

For the purposes of this Regulation with respect to periods of disability commencing on or after January 1, 1953, a covered individual is deemed to be in "concurrent employment" if he is in employment with two or more employers during some part of the last calendar day he was in employment preceding the commencement of a period of disability; the term "concurrent employers" is deemed to mean the covered employers with whom such individual was in employment on such last day of employment.

(a) With respect to a covered individual in concurrent employment, his concurrent employers contributing to the State Disability Benefits Fund on his behalf shall be deemed to be his "most recent covered employer" for the purpose of computing his average weekly wage as defined in Section 3 of the Temporary Disability Benefits Law (R. S. 43:21-27). Such employees shall be entitled to receive benefits under the State plan computed on the basis of his total wages earned from all such employers during the base weeks in the eight (8) calendar weeks immediately preceding the calendar week in which disability commenced.

(b) The benefits paid for any period of disability under the State plan to a covered individual who is in concurrent employment shall be charged to the accounts of such individual's concurrent employers in the same proportion that such individual earned wages from such concurrent employers during the base weeks in the fifty-two (52) calendar weeks immediately preceding the commencement of his disability.

**REGULATION 51—NOTICES AND APPEALS  
(STATE PLAN)****51.01 Notice to Claimant and Employer:**

(a) A claimant shall be given written notice of any decision on his claim and of the reason for any denial of his claim.

(b) If the "Employer's Statement" on Form DS-1 has not been completed by an employer or his representative, Form DS-6 (Notice of Disability Benefit Claim Filed and Request For Information) shall be mailed or delivered to the employer or employers by whom the claimant was employed at the commencement of the disability or by whom he was last employed if out of employment less than two (2) weeks.

(c) A copy of the decision of eligibility of the claimant stating his weekly benefit rate and the probable duration for which benefits will be paid, shall be mailed or delivered to the employer or employers by whom such claimant was employed at the commencement of the disability or by whom he was last employed if out of employment less than two (2) weeks. A notice of each payment of benefits shall be given to such employer or employers.

**51.02 Notices Required from Employers:**

(a) Within seven (7) days after the mailing of a request for information with respect to a period of disability commencing on or after January 1, 1953, an employer shall furnish the Division with any information requested or known to him which may bear upon the eligibility of the claimant.

If any employer or employing unit fails to respond to the request for information within seven (7) days after the mailing of such request, the Chief of State Plan Disability Benefits shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of fraud, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

(b) The employer, within two (2) working days after receipt of the decision of eligibility (Form DS-8), shall furnish the Division with any information known to him bearing upon the eligibility of the claimant or duration of payments to be made.

(c) If after receipt of a decision of eligibility (Form DS-8) an employer acquires information which may render the claimant ineligible for benefits or reduce the rate or amount of benefits, such employer shall immediately forward the information to the Division.

(d) Whenever a decision of eligibility with respect to a period of disability commencing after December 31, 1952 is based upon information other than that supplied by an employer because such

employer failed to respond to a request for information, such decision of eligibility and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account under R. S. 43:21-7(e) because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such decision of eligibility shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks or parts thereof occurring subsequent to the close of the calendar week following the receipt of the employer's reply shall be paid in accordance with such altered decision of eligibility.

**51.03 Filing of Appeals by Claimants or Employers:**

Unless the claimant or the employer, within seven (7) calendar days after the delivery of a decision or notification thereof, or within ten (10) calendar days after such notification was mailed to his last-known address, files an appeal from such decision, it shall be final and benefits shall be paid or denied in accordance therewith, except for such decisions or determinations as may be altered as provided in Regulation 51.02 herein.

**51.04 Rules on Appeal:**

The rules of the Board of Review shall govern appeals in disability benefit cases under the State Plan.

**REGULATION 52—REPORTS AND RECORDS—  
(STATE PLAN)**

(This regulation has ceased to be operative)

**GENERAL RULES**

**of the**

**DIVISION OF EMPLOYMENT SECURITY**

(5-1-53)

Hereinafter, "Division" refers to Division of Employment Security and "Director" to the Director of that Division.

### GENERAL RULE DES-1—OTHER REMUNERATION

Refer to the Unemployment Compensation Law—R. S. 43:21-19(p).

#### DES-1.01 Payments in Kind:

Board, lodging or any other payment in kind received by a worker from his employing unit in addition to or in lieu of (rather than as a deduction from) money wages shall be deemed to be remuneration paid by his employing unit.

#### DES-1.02 Cash Value Determined or Approved by the Director:

The Director shall determine or approve the cash value of such payments in kind, and such cash value shall be used in determining the wages payable or paid to such worker and in computing contributions due under the Law.

#### DES-1.03 Money Value for Board and Room, Meals and Lodging:

Where a money value for board and room, meals and lodging, or for any of such items, furnished a worker is agreed upon in a contract of hire, the amount so agreed upon shall, if more than the rates specially determined by the Director or the rates prescribed herein, be deemed the cash value of such item or items. Unless and until rates in a given case are determined by the Director, board and room, meals and lodging, or any of such items, furnished in addition to, or in lieu of, money wages, shall be deemed to have not less than the following values:

|                                   |        |
|-----------------------------------|--------|
| Full board and room, weekly ..... | \$7.00 |
| Meals, per week .....             | 4.50   |
| per day .....                     | .75    |
| per meal .....                    | .25    |
| Lodging, per week .....           | 2.50   |

### GENERAL RULE DES-2—RECOVERY OF CONTRIBUTIONS FROM INDIVIDUALS

Refer to the Unemployment Compensation Law—R. S. 43:21-7(d) (3).

#### DES-2.01 Procedure for Recovery:

A subcontractor, or other employing unit, which has been obliged to pay workers' contributions which such subcontractor or employing unit failed to collect, may recover the proportionate amount from each individual worker in a civil action for debt, but only if:

(5-1-53)

(a) It shall first furnish to such individual a statement showing the contributions so paid by it on his behalf, and the amount of his wages subject to such contributions; and

(b) Such notice is furnished and served within ten days after the payment of such contributions; and

(c) Any civil action instituted for the recovery of such contributions is commenced within six months after the payment thereof.

## **RULES**

**of the**

### **BOARD OF REVIEW**

**governing appeals before the**

### **BOARD OF REVIEW**

**and**

### **APPEAL TRIBUNALS**

The Unemployment Compensation Law (R. S. 43:21-6(f) ) provides:

"The manner in which disputed benefit claims, and appeals \* \* \* shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure \* \* \*."

(5-1-53)

Hereinafter, "Division" refers to Division of Employment Security and "Director" to the Director of that Division.

#### **RULE BR-1—ORGANIZATION OF THE BOARD OF REVIEW**

**BR-1.01 Membership:** The Board of Review shall consist of three members appointed by the Director subject to the provisions of Title 11 (Civil Service) of the Revised Statutes of New Jersey, 1937, and the supplements and amendments thereto, from Civil Service eligible lists.

(a) The Board of Review shall elect one of its members as chairman and one as vice-chairman and may appoint a secretary.

#### **BR-1.02 Duties:**

(a) It shall be the duty of the members of the Board of Review to act as a final appeals board in hearing and deciding cases of benefit disputes, including appeals from determinations with respect to demands for refunds of benefits under Subsection 43:21-16(d) of the Unemployment Compensation Law, to determine all matters of policy in the Board of Review, to supervise the work of appeal tribunals, and to issue rules and regulations governing the conduct of hearings and the presentation of appeals to the appeal tribunals and to the Board of Review.

(b) The chairman of the Board of Review shall convoke and preside at all meetings of the Board of Review, shall sign all orders, subpoenas and other official documents issued in the name of the Board of Review, and shall perform all other duties usually required of a chairman. He shall be in charge of the administrative organization of the Board of Review and of the appeal tribunals, subject to the general policies of the Board of Review.

(c) The secretary of the Board of Review shall keep a stenographic record of all proceedings at meetings of the Board of Review and shall present same duly transcribed to the Board of Review for its approval at its next meeting; and shall perform all other duties usually required of a secretary.

(d) The vice-chairman shall perform the duties of the chairman during any period of the latter's absence or incapacity.

**BR-1.03 Quorum:** A quorum of the Board of Review shall consist of two members of the Board. No decision, determination, or opinion shall be rendered by the Board of Review except with the approval of a majority thereof.

**RULE BR-2—ORGANIZATION OF APPEAL TRIBUNALS**

**BR-2.01 Membership:**

(a) Appeal tribunals shall consist either of a single member, a salaried examiner appointed by the Director subject to the provisions of Title 11 (Civil Service) of the Revised Statutes of New Jersey, 1937, and the supplements and amendments thereto, from Civil Service eligible lists; or

(b) A body consisting of three members, one of whom shall be selected in accordance with paragraph (a) of this rule, who shall serve as chairman. Of the others, one shall be a representative of employees, and the other a representative of employers.

**BR-2.02 Duties:** It shall be the duty of the appeal tribunals to hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under Subsection 43:21-16(d) of the Unemployment Compensation Law of New Jersey.

(a) The chairman of an appeal tribunal shall in all cases be a salaried examiner appointed by the Director in accordance with paragraph (a) of Rule BR-2.01. It shall be the duty of the chairman to convoke and to preside at all meetings of the appeal tribunal, to preside at all hearings, and to issue all orders and subpoenas in cases appealed to the tribunal.

**BR-203 Appeals in Which Three-Member Appeal Tribunals Shall Be Used:** The Board of Review may, in its discretion, order any case pending before an appeal tribunal to be heard by a three-member appeal tribunal and may designate two appeal tribunal members to sit with the chairman in such case.

The chairman shall act alone in the absence of disqualification of any other member and his alternates.

**BR-2.04 Disqualification of Members of Appeal Tribunals:** No member of an appeal tribunal shall participate in the hearing of any appeal in which he has an interest. Challenges to the interest of any member of an appeal tribunal, other than the chairman, may be heard and decided by the chairman of the appeal tribunal, or, in his discretion, referred to the Board of Review; challenges to the chairman shall be heard and decided by the Board of Review.

**RULE BR-3—APPEALS TO APPEAL TRIBUNALS**

**BR-3.01 Presentation of Appealed Claims:** All hearings shall be scheduled promptly.

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(a) A party appealing to an appeal tribunal from a benefit determination shall file with the Clerk of the Appeal Tribunal or at the office where the claim was filed, a notice of appeal in quadruplicate on Form BR-1(W) (claimant's appeal) or Form BR-1(E) (employer's appeal), setting forth the information required thereon. Unless said form is duly filed, the appeal may be dismissed for want of prosecution, except in cases where it can be shown to the satisfaction of the Appeal Tribunal that failure to use such form was excusable.

(b) In cases involving a large number of claimants, a blanket notice of appeal may be filed on behalf of, or with respect to, such claimants, and the date of filing of such notice will be accepted as the date of filing of the individual appeals thereunder. However, no case will be scheduled for hearing until an individual appeal on the prescribed appeal form has been filed with the Clerk of the Appeal Tribunal. Following the filing of the blanket appeal, a reasonable time will be allowed for preparation of the individual appeals.

(c) Upon the scheduling of a hearing on an appeal, notices of hearing shall be mailed to the claimant and to the parties interested in the determination which is being appealed at least five days before the date of the hearing, specifying the place and time of the hearing.

(d) Notice of appeal filed in the local office shall be transmitted immediately to the Clerk of the Appeal Tribunal and a copy shall be forwarded to the Chief of Unemployment Benefits for his information. If, after an appeal has been filed, it is found that the matter may be adjusted to the satisfaction of the parties without further hearing, a request for dismissal of the appeal will be entertained and acted upon by the tribunal to which the case is referred.

**BR-3.02 Hearing of Appeals:**

(a) **Conduct of Hearing:** The proceedings shall be fair and impartial and shall be conducted in such manner as may be best suited to determine the claimant's benefit rights. Hearing shall, in the absence of a showing of sufficient cause for a closed hearing, be open to the public. The examiner shall open the hearing by ascertaining and summarizing the issue or issues involved in the appeal. The parties or their attorneys may examine or cross-examine witnesses, inspect documents, and explain or rebut any evidence. An opportunity to present argument shall be afforded the parties, which argument shall be made part of the record. Where a party is not represented by counsel, the tribunal shall give him every assistance that does not interfere with the impartial discharge of its official duties. The tribunal may examine each party or witness to such extent as it deems necessary. All oral testimony shall be under oath or affirmation and shall be recorded and kept.

An appeal tribunal may take such additional evidence as it deems necessary, provided that in case such further evidence is taken, the parties shall be given proper notice of the time and place of such further hearing.

(b) The parties to an appeal, with the consent of the appeal tribunal, may stipulate in writing the facts involved. The appeal tribunal may decide the appeal on the basis of such stipulation, or, in its discretion, may set the appeal down for hearing and take such further evidence as it deems necessary to enable it to determine the appeal.

#### **BR-3.03 Adjournment of Hearing:**

(a) The chairman of an appeal tribunal shall use his best judgment as to when adjournments of hearings shall be granted in order to secure all facts that are necessary and to be fair to the parties.

If no appellant appears at the hearing, the appeal tribunal may proceed to make its decision on the record or may dismiss the appeal on the ground of non-appearance unless it appears that there is good cause for adjournment.

#### **BR-3.04 Decision of Appeal Tribunals:**

(a) If the decision of an appeal tribunal is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision, which shall set forth the reasons why it fails to agree with the majority.

(b) Copies of all decisions and the reasons therefor shall be mailed to the claimant and to all other parties to the appeal.

(c) The decision shall be in the following form: The first section shall indicate the party appealing, the determination appealed from, the date of the decision, and the date of the initiation of the appeal. The appearances shall be noted.

The second section shall be a recital of the facts upon which the decision is based and shall be entitled "Findings of Fact." It shall include among all the pertinent facts the date the claim was filed.

The third section shall be entitled "Opinion" and shall contain the reasons for the decision.

The fourth section shall contain the "Decision." This shall be followed by the signature of the examiner. In the event the case is heard by a three-member tribunal, the decision shall contain the signatures of all members. Each decision shall also indicate the date of hearing and decision.

(d) Every decision of an appeal tribunal shall, immediately upon issuance, be transmitted to the Executive Secretary of the Board of

Review, who shall present it to the Board of Review for consideration. The Board shall forthwith determine whether or not the decision shall be allowed to stand. The Board may, by majority vote, set aside any decision of an appeal tribunal and may either remand the case to another appeal tribunal for new hearing and decision or withdraw the case to itself. A case so withdrawn may be decided by the Board on the basis of the appeal tribunal record or may be remanded to the same or another appeal tribunal for the taking of evidence upon which the Board may act. The Board of Review may also, if it so desires, hold a new hearing itself in any such case.

#### **RULE BR-4—APPEALS TO THE BOARD OF REVIEW**

**BR-4.01 Conduct of Hearing:** The conduct of hearings and procedures before the Board of Review shall be in the manner prescribed for the appeal tribunals.

#### **BR-4.02 Presentation of Appeals to the Board of Review:**

(a) Notice of appeal shall be filed within ten calendar days after the date of notification or mailing of the decision which is being appealed.

(b) A party appealing from a decision of an appeal tribunal shall file in quadruplicate with the Board of Review or at the office where the claim was filed a notice of appeal to the Board of Review, setting forth the information required thereby.

Copies of the notice of appeal shall be transmitted to the claimant, to the Chief of Unemployment Benefits, and to all other parties to the appeal.

(c) Notice of appeal filed in the local office shall be transmitted immediately to the Clerk of the Board of Review and a copy shall be forwarded to the Chief of Unemployment Benefits for his information. If, after an appeal has been filed, it is found that the matter may be adjusted to the satisfaction of the parties without further hearing, a request for dismissal of the appeal will be entertained and acted upon by the Board of Review.

(d) A request for reopening of a Board of Review decision shall not act as a stay of proceedings in the case unless the said request is granted. However, if the Board of Review fails to act upon a request for reopening within ten days after the date of mailing of the original Board of Review decision, the Executive Secretary of the Board of Review shall, on the tenth day, issue an Order to Show Cause which shall act as a stay of all proceedings in the case.

**BR-4.03 Hearing of Appeals:**

(a) All appeals to the Board of Review may be heard upon the evidence in the record made before the appeal tribunal; or the Board of Review may direct the taking of additional evidence before it.

(b) In the hearing of an appeal on the record, the Board of Review may limit the parties to oral argument or the filing of written argument, or both. If, in the discretion of the Board of Review, additional evidence is necessary to enable it to determine the appeal, the parties shall be notified by the Clerk of the Board of Review of the time and place such evidence will be taken. Any party to any proceeding in which testimony is taken may present such evidence as may be pertinent to the issue.

(c) The Board of Review, in its discretion, may remand any claim or any issue involved in a claim to an appeal tribunal for the taking of such additional evidence as the Board of Review may deem necessary. Such testimony shall be taken by the appeal tribunal in the manner prescribed for the conduct of hearings on appeals before appeal tribunals. Upon the completion of the taking of evidence by an appeal tribunal pursuant to a direction of the Board of Review, the claim or the issue involved in such claim shall be returned to the Board of Review for its decision upon the entire record, including the evidence before the appeal tribunal and such additional evidence and such oral argument as the Board of Review may permit before it.

**BR-4.04 The Hearing of Appeals by the Board of Review on Its Own Motion:**

(a) Within the legal time limit for appeal following a decision by an appeal tribunal and in the absence of the filing by any of the parties to the decision of the appeal tribunal of a notice of appeal, the Board of Review, on its own motion, may withdraw such decision to itself and may either decide the case on the record below or may order the parties to appear before it for a hearing on the claim or any issue involved therein.

(b) Such hearings shall be held only after five days' prior notice to the parties to the decision of the appeal tribunal, and shall be heard in the manner prescribed for the conduct of hearings before the Board of Review.

**BR-4.05 Hearing of Appeals by the Board of Review on Cases Ordered Removed to It from an Appeal Tribunal:**

(a) Hearings on any claim before an appeal tribunal ordered by the Board of Review to be removed to itself shall be presented, heard, and decided by the Board of Review in the manner prescribed for the conduct of hearings before the Board of Review.

(b) The Board of Review may, on its own motion, transfer any case pending before an appeal tribunal to another tribunal for hearing and decision.

**BR-4.06 Decisions of Board of Review:**

(a) Following the conclusion of proceedings on an appeal, the Board of Review shall forthwith announce its decision with respect to the appeal. The decision shall be in writing and signed by at least a majority of the Board of Review. It shall set forth the findings of fact of the Board of Review with respect to the matters appealed, its opinion and decision. A quorum of the Board of Review must be present when any decision is voted.

(b) If a decision of the Board of Review is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision, which shall set forth the reasons why it fails to agree with the majority.

(c) Copies of all decisions shall be mailed by the Board of Review to the claimant and to all other parties to the appeal.

**RULE BR-5—GENERAL RULES FOR BOTH APPEAL STAGES****BR-5.01 Issuance of Subpoenas:**

(a) Subpoenas to compel the attendance of witnesses and the production of records for any hearing on an appeal may be directed to be issued by a member of the Board of Review in cases appealed to the Board of Review, or by the chairman of an appeal tribunal, in cases appealed to an appeal tribunal, only upon the showing of the necessity therefor by the party applying for the issuance of such subpoena.

(b) Witness fees at the rate of fifty cents (\$.50) for each day of attendance upon a hearing in response to a subpoena to testify and mileage at the rate of seven cents (\$.07) per mile from the residence of the witness to the place of hearing and return, shall be paid upon presentation of a voucher signed by the individual entitled thereto and properly certified by a member of the appellate body before whom the individual appeared as a witness.

(c) Witness fees at the rate of one dollar (\$1.00) for each day of attendance upon a hearing in response to a subpoena duces tecum and mileage at the rate of seven cents (\$.07) per mile from the residence of the witness to the place of hearing and return, shall be paid upon presentation of a voucher signed by the individual entitled thereto and properly certified by a member of the appellate body before whom the individual appeared as a witness.

**BR-5.02 Orders for Supplying Information from the Records of the Division:**

(a) Orders for supplying information from the records of the Division to a party in interest or his representative to the extent necessary for the proper presentation of a claim shall issue only upon written application therefor to the Board of Review, setting forth the information required and the reasons therefor.

(b) In all cases where an application to supply a party or his representative with information from the records of the Division is granted, the party shall be furnished with a copy of such information.

**BR-5.03 Representation before Appeal Tribunals and the Board of Review:**

(a) Any individual may appear for himself in any proceedings before an appeal tribunal or before the Board of Review.

(b) Appearances for and on behalf of interested parties other than the Division at formal hearings before the appeal tribunals and the Board of Review shall be limited to accredited members of the New Jersey Bar; this rule, however, shall not apply to informal hearings, conferences, or proceedings not subject to judicial review.

(c) In any proceeding on an appeal before an appeal tribunal or the Board of Review, all fees for persons representing claimants in accordance with Subsection (b) of this rule shall be approved by the Board of Review.

The amount of fees awarded to counsel shall be discretionary with the Board of Review.

(d) The Board of Review or any appeal tribunal, in its discretion, may refuse to allow to appear before it any person who misconducts himself at a hearing or who intentionally or repeatedly fails to observe the provisions of the Unemployment Compensation Law of New Jersey, the rules and regulations of the Division, or the rules of the Board of Review.

**BR-5.04 Inspection of Decisions of the Appeal Tribunals and the Board of Review:** Copies of all decisions of the appeal tribunals and the Board of Review shall be kept on file at the offices of the Board of Review and of the appeal tribunals at Trenton. Such decisions shall be open for inspection but without in any manner revealing the names of any of the parties or witnesses involved.

State of New Jersey  
Department of Labor and Industry  
DIVISION OF EMPLOYMENT SECURITY

**REGULATION 12 -- TRANSFER OF EMPLOYMENT EXPERIENCE**  
Refer to the Unemployment Compensation Law -- R. S. 43:21-7(c)(7)  
(Effective Dec. 10, 1953)

12.01 **Transfer of Predecessor's Whole Experience is Automatic:** Upon receipt of notification that a predecessor employer has transferred his organization, trade or business, or substantially all his assets to a successor in interest, the Division shall transfer the employment experience of the predecessor employer to the successor in interest if the employment experience of the predecessor with respect to the organization, trade or business, or assets may be considered indicative of the anticipated employment experience of the successor in interest.

12.02 **Transfer of Whole Employment Experience May be Made Ineffective:** The transfer of whole employment experience may be made ineffective by successor in interest filing written notice with the Division within four months of the date of acquisition of the organization, trade or business or assets, or thereafter for good cause shown, protesting the transfer of the employment experience.

12.03 **Transfer of Part of Predecessor's Experience by Application:** A predecessor employer and successor in interest may jointly make application, on Form UC-47 (Joint Application for Transfer of Employment Experience), for transfer of that portion of the employment experience relating to that part of the organization, trade, assets or business acquired by the successor in interest, and the employment experience will be transferred if:

(a) Either the predecessor or successor in interest shall notify the Division of the transfer and acquisition and of its intention to apply for a part transfer of the employment experience within four calendar months after the date of transfer and acquisition, or thereafter upon good cause shown; and,

(b) Completes and files Form UC-47 with the Division within thirty days from the date of mailing thereof; and,

(c) The employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business to be transferred may be considered indicative of the future employment experience of the successor in interest; and,

(d) The part of the business transferred is a distinguishable and identifiable part to which may be allocated a definite portion of the predecessor's contributions, annual payrolls, and benefit charges; and,

(e) That the predecessor and/or successor in interest have or has furnished the information covering contributions, annual payrolls, benefit charges, and other data necessary to make the transfer on the records of the Division.

12.04 **Effective Date of Transfer:** The employment experience so transferred shall be used in determining the employer contribution rate of the successor in interest for the fiscal year beginning July first following the date of the acquisition.

12.05 **Assignment of Contribution Rates for Interim Periods:**

(a) Any employer who acquires the organization, trade, assets or business in whole or in part of another employer shall continue to pay contributions at the rate currently assigned to him for the period from the date of acquisition to July first following; in such case if the predecessor continues to operate a part of the business, he shall continue to pay contributions at the rate currently assigned to him for the period from the date of transfer to July first following.

(b) Any employing unit which becomes a subject employer by virtue of acquiring the organization, trade, assets or business of an employer shall be assigned the contribution rate of the predecessor for the period from the date of acquisition to July first following.

(c) Any employing unit which becomes a subject employer by virtue of acquiring part of the organization, trade, assets or business of an employer shall be assigned the basic rate of a new employer for the period from the date of the acquisition to July first following.

(d) Any employing unit which becomes a subject employer by virtue of acquiring the organization, trade, assets or business of two or more employers shall be assigned the rate of the predecessors, if they have the same rate; or, if they do not have the same rate, shall be assigned the basic rate of a new employer for the period from the date of acquisition to July first following.

State of New Jersey  
Department of Labor and Industry  
DIVISION OF EMPLOYMENT SECURITY

REGULATION 26

PAYMENT OF BENEFITS TO INTERSTATE CLAIMANTS

(Effective July 5, 1953)

(As Amended by Administrative Order No. 16, Dated May 15, 1953)

26.01 Co-operation with Other States:

(a) This Regulation shall govern the Division in its administrative co-operation with other States adopting a similar regulation for the payment of benefits to interstate claimants.

26.02 Definitions: As used in this Regulation, unless the context clearly requires otherwise:

(a) "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.

(b) "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.

(c) "State" includes Alaska, Hawaii, and the District of Columbia.

(d) "Agent State" means any State in which an individual files a claim for benefits from another State.

(e) "Liable State" means any State against which an individual files, through another State, a claim for benefits.

(f) "Benefits" means the compensation payable to an individual with respect to his unemployment, under the unemployment compensation law of any State.

(g) "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.

26.03 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.

26.04 Benefit Rights of Interstate Claimants:

(a) If a claimant files a claim against any State, and it is determined by such State that the claimant has available benefit credits in such State, then claims shall be filed only against such State as long as benefit credits are available in that State. Thereafter, the claimant may file claims against any other State in which there are available benefit credits.

For the purposes of this Regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.

(b) The benefit rights of interstate claimants established by this Regulation shall apply only with respect to new claims filed on or after July 5, 1953.

26.05 Claims for Benefits:

(a) Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the Interstate Benefit Payment Plan. Claims shall be filed in accordance with the type of week in use in the agent State. Any adjustments required to fit the type of week used by the liable State shall be made by the liable State on the basis of consecutive claims filed.

(b) Claims shall be filed in accordance with agent-State regulations for intrastate claims in local employment offices, or at an itinerant point, or by mail.

(1) With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable State shall, under circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period, late. If a claimant files more than one reporting period late, an initial claim must be used to begin a claim series and no continued claim for a past period shall be accepted.

(2) With respect to weeks of unemployment during which an individual is attached to his regular employer, the liable State shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent State.

26.06 Determination of Claims:

(a) The agent State shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable State in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent State.

(b) The agent State's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent State shall not refuse to take an interstate claim.

26.07 Appellate Procedure:

(a) The agent State shall afford all reasonable co-operation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(b) With respect to the time limits imposed by the law of a liable State upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable State on the date when it is received by any qualified officer of the agent State.

26.08 Extension of Interstate Benefit Payments to Include Claims Taken in and for Canada:

(a) This Regulation shall apply in all its provisions to claims taken in and for Canada.

State of New Jersey  
Department of Labor and Industry  
DIVISION OF EMPLOYMENT SECURITY

REGULATIONS RELATING TO THE TEMPORARY DISABILITY BENEFITS LAW

(Amendments effected by Administrative Order No. 17, Dated September 22, 1953)

REGULATION 40

PRIVATE PLANS (GENERAL PROVISIONS)

40.01 Extent of Coverage:

(a) All employees of the employer shall be covered by one or more private plans, without restrictions or exclusions, except that, subject to the approval of the Division, any private plan may exclude employees of a separate unit, craft, organization, plant, department or establishment, or other class or classes of employees. Application for such exclusion shall be submitted on a form and in a manner prescribed by the Director. The Division may not approve the exclusion of a class or classes of employees determined by the age, sex or race of the employees or by the wages paid such employees, if, in the opinion of the Division, such exclusion would result in a substantial selection of risk adverse to the State plan. For the purposes of this Regulation, the employees of an employing unit (not a subject employer) performing services for an employer, as defined in R. S. 43:21-19(g) shall be considered a class of employees which may be excluded.

REGULATION 46

REPORTS AND RECORDS (PRIVATE PLAN)

46.01 Exchange of Information:

(a) If an employee's weekly benefit amount determined under the benefit provisions of an employer's private plan with respect to a period of disability commencing on or after January 1, 1953 is less than the maximum weekly benefit amount payable under the State plan (\$30.00) and such weekly benefit amount has been computed on a basis different from that provided for covered individuals under the State plan with respect to periods of disability commencing on or after January 1, 1953, the weekly benefit amount shall be recomputed at two-thirds ( $\frac{2}{3}$ ) of the employee's "average weekly wage"; such average weekly wage to be determined on the basis of his total earnings from the employer during the base weeks in the eight (8) calendar weeks immediately preceding the calendar week in which his disability commenced divided by the number of such base weeks.

With respect to a period of disability commencing on or after January 1, 1953 and prior to July 1, 1953, if such recomputed weekly benefit amount is less than the maximum weekly benefit amount payable under the State plan and the computation of the "average weekly wage" for such recomputation yields a result which does not truly represent the employee's current weekly rate of earnings with the employer, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the weekly wages of the employee earned from all covered employers during the eight (8) base weeks immediately preceding the calendar week in which the employee's disability commenced.

With respect to a period of disability commencing on or after July 1, 1953, if such recomputed weekly benefit amount is less than the maximum weekly benefit amount payable under the State plan and it appears that the "average weekly wage" for such recomputation may be less than the employee's average weekly earnings in employment with all covered employers during the base weeks in such eight (8) calendar weeks, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the weekly wages of the employee earned from all covered employers during the eight (8) base weeks immediately preceding the calendar week in which the employee's disability commenced.

When requesting such information, such payer shall furnish the Division with the following information:

- (1) Name, address and social security number of the employee;
- (2) Date on which the disability commenced;
- (3) The names and addresses of such other employers, from whom the employee alleges to have earned wages immediately preceding his disability, as may be necessary to determine all wages earned in the required eight (8) base weeks;
- (4) The weekly earnings of the employee from the employer during each of the calendar weeks in the

Regulation 46 Reports and Records (Private Plan) (Cont.)

fifty-two (52) calendar weeks immediately preceding the disability, if any.

(b) If the private plan of an employer provides as a condition of eligibility for benefits with respect to a period of disability commencing on or after January 1, 1953, that an otherwise eligible employee shall have established at least seventeen (17) or a lesser number of base weeks within the fifty-two (52) calendar weeks preceding the week in which his period of disability commenced and the employee has not established such base weeks from his employment with the employer, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

- (1) Name, address and social security number of the employee;
- (2) Date on which the disability commenced;
- (3) The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of not less than fifteen dollars (\$15.00) immediately preceding his disability, as may be necessary to determine the required number of base weeks;
- (4) The number of calendar weeks in the fifty-two (52) calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than fifteen dollars (\$15.00) from the employer.

(c) If the private plan of an employer provides, with respect to periods of disability commencing on or after January 1, 1953, that the maximum total benefits payable to any eligible employee in any twelve-month period may be computed as an amount equal to three-fourths ( $\frac{3}{4}$ ) of the employee's base weeks occurring in the fifty-two (52) consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced multiplied by the employee's weekly benefit amount and it appears that such provision will be applicable with respect to any period of disability because the employee has not established a sufficient number of base weeks from his employment with the employer to provide total benefits at least equal to twenty-six (26) times his weekly benefit amount, then the employer, nominee, designee, trustee, union, association of employees, insurer or organization which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

- (1) Name, address and social security number of the employee;
- (2) Date on which the disability commenced;
- (3) The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of not less than fifteen dollars (\$15.00) immediately preceding his disability, as may be necessary to determine the required number of base weeks;
- (4) The number of calendar weeks in the fifty-two (52) consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than fifteen dollars (\$15.00) from the employer.

REGULATION 48

HEARINGS (PRIVATE PLAN)

48.08 Rendition of Decision:

(a) Upon the completion of any hearing, the Hearing Officer shall promptly make a determination of facts, and an Order in writing, signed by him, disposing of the issues presented, which shall be final and binding on the claimant, the employer, the insurer, the organization paying benefits and all other parties. The Order shall set forth a statement of the facts involved, the reasons for the Order and the Order.

(b) A copy of such Order shall be served upon each of the parties by registered mail, addressed to his last-known address.

(c) The Order of the Hearing Officer shall be final and benefits paid or denied in accordance therewith unless any party feeling aggrieved by the action of the Hearing Officer applies for judicial review through a proceeding in lieu of prerogative writ.

State of New Jersey  
Department of Labor and Industry  
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RULE BR-3

APPEALS TO APPEAL TRIBUNALS

(Effective November 16, 1953)

(As Amended by Administrative Order No. 18, Dated November 12, 1953)

BR-3.01 Presentation of Appealed Claims: All hearings shall be scheduled promptly.

(a) A party appealing to an appeal tribunal from a benefit determination shall file with the clerk of the Appeal Tribunal or at the office where the claim was filed, a notice of appeal in quadruplicate on Form BR-1(W) (claimant's appeal) or Form BR-1(E) (employer's appeal), setting forth the information required thereon. Unless said form is duly filed, the appeal may be dismissed for want of prosecution, except in cases where it can be shown to the satisfaction of the Appeal Tribunal that failure to use such form was excusable.

Every appeal shall set forth the reasons alleged for disputing the determination or decision appealed from. An appeal from a denial of benefits shall set forth a specific averment that the claimant is and has been ready and willing to accept any suitable work, that he is able to work and that he has been actively seeking work. An appeal from the allowance of benefits shall set forth a specific averment of the reason or reasons alleged on account of which it is contended that the claimant is ineligible or disqualified for benefits. Where necessary, additional pages may be attached to the official form of notice of appeal. Any appeal which does not set forth a prima facie cause for relief may be summarily dismissed. An appeal so dismissed may be reinstated by the Board of Review upon good cause shown.

(b) In cases involving a large number of claimants, a blanket notice of appeal may be filed on behalf of, or with respect to, such claimants, and the date of filing such notice will be accepted as the date of filing of the individual appeals thereunder. However, no case will be scheduled for hearing until an individual appeal on the prescribed appeal form has been filed with the Clerk of the Appeal Tribunal. Following the filing of the blanket appeal, a reasonable time will be allowed for preparation of the individual appeals.

(c) Upon the scheduling of a hearing on an appeal, notices of hearing shall be mailed to the claimant and to the parties interested in the determination which is being appealed at least five days before the date of the hearing, specifying the place and time of the hearing.

(d) Notice of appeal filed in the local office shall be transmitted immediately to the Clerk of the Appeal Tribunal and a copy shall be forwarded to the Chief of Unemployment Benefits for his information. If, after an appeal has been filed, it is found that the matter may be adjusted to the satisfaction of the parties without further hearing, a request for dismissal of the appeal will be entertained and acted upon by the tribunal to which the case is referred.