

**CHAPTER 17**

**UNEMPLOYMENT BENEFIT PAYMENTS**

**Authority**

N.J.S.A. 34:1-20, 34:1A-3(e), and 43:21-1 et seq., specifically 43:21-11.

**Source and Effective Date**

R.1996 d.25, effective December 13, 1995.  
See: 27 N.J.R. 4123(b), 28 N.J.R. 270(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 17, Unemployment Benefit Payments, expires on December 13, 2000.

**Chapter Historical Note**

Subchapter 3, Definitions; Subchapter 4, Employer Records and Evidence Concerning Partial Unemployment; and Subchapter 5, Claim for Partial Unemployment Benefits, were filed and became effective prior to September 1, 1969. Subchapter 9, Procedures for Wage Benefit Conflicts, was adopted as new rules by R.1975 d.142, effective May 28, 1975. See: 7 N.J.R. 335(a). Subchapter 10, Determination and Demand for Refund of Unemployment Benefits, was adopted as new rules by R.1980 d.468, effective October 23, 1980. See: 12 N.J.R. 426(a), 12 N.J.R. 724(c). Subchapter 11, Offset of Unemployment Insurance Benefits by Retirement and Pension Income, was adopted as new rules by R.1980 d.561, effective January 1, 1981. See: 13 N.J.R. 102(a). Amendments to Subchapter 10 became effective March 21, 1983 as R.1983 d.83. See: 15 N.J.R. 74(a), 15 N.J.R. 447(a). Subchapter 12, Dependency Benefits, was adopted as new rules by R.1984 d.516, effective November 5, 1984. See: 16 N.J.R. 2237(a), 16 N.J.R. 3046(a). Pursuant to Executive Order No. 66(1978), Subchapter 10 expired on October 23, 1985, and new rules on the same subject were adopted as R.1985 d.657, effective January 6, 1986. See: 17 N.J.R. 2525(b), 18 N.J.R. 91(a). Pursuant to Executive Order No. 66(1978), Subchapter 11 was readopted as R.1985 d.718, effective December 30, 1985. See: 17 N.J.R. 2736(a), 18 N.J.R. 285(b).

Chapter 17, Unemployment Benefit Payments, was readopted by R.1991 d.46, effective January 4, 1991. See: 22 N.J.R. 3445(a), 23 N.J.R. 310(b). Pursuant to Executive Order No. 66(1978), Chapter 17 was readopted as R.1996 d.25, effective December 13, 1995. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. SEPARATION AND DISQUALIFICATION NOTICES**

- 12:17-1.1 Statement to workers at time of separation
- 12:17-1.2 Request for separation or wage information
- 12:17-1.3 Notice of failure to apply for or to accept suitable work
- 12:17-1.4 Notice of unemployment due to mass separation
- 12:17-1.5 Notice of unemployment due to labor dispute
- 12:17-1.6 Notice of temporary separation from work

**SUBCHAPTER 2. REGISTRATION FOR WORK AND CLAIM FOR BENEFITS**

- 12:17-2.1 Claims and registration
- 12:17-2.2 Claimant identification
- 12:17-2.3 (Reserved)
- 12:17-2.4 Forms prescribed for recording claims for benefits for unemployment
- 12:17-2.5 Benefit determination notice
- 12:17-2.6 Refusal to cooperate with quality control reviews

**SUBCHAPTER 3. DEFINITIONS**

- 12:17-3.1 Weeks with reference to unemployment defined
- 12:17-3.2 Week of disqualification defined

**SUBCHAPTER 4. EMPLOYER RECORDS AND EVIDENCE CONCERNING PARTIAL UNEMPLOYMENT**

- 12:17-4.1 Regular employee records
- 12:17-4.2 Evidence of weekly partial unemployment

**SUBCHAPTER 5. CLAIM FOR PARTIAL UNEMPLOYMENT BENEFITS**

- 12:17-5.1 Registration and filing
- 12:17-5.2 Extended registration period for cause

**SUBCHAPTER 6. PAYMENT OF BENEFITS TO INTERSTATE CLAIMANTS**

- 12:17-6.1 Cooperation with other states
- 12:17-6.2 Definitions
- 12:17-6.3 Registration for work
- 12:17-6.4 Benefit rights of interstate claimants
- 12:17-6.5 Claims for benefits
- 12:17-6.6 Determination of claims
- 12:17-6.7 Appellate procedure
- 12:17-6.8 Extension to Canadian claims

**SUBCHAPTER 7. DISCLOSURE OF INFORMATION**

- 12:17-7.1 Administration of New Jersey Unemployment Compensation and Temporary Disability Benefits Law
- 12:17-7.2 Authorized disclosure of information
- 12:17-7.3 Unauthorized disclosure of information

**SUBCHAPTER 8. CLAIMS FOR DISABILITY BENEFITS DURING UNEMPLOYMENT**

- 12:17-8.1 Waiver of registration and reporting requirements
- 12:17-8.2 Time for filing proof and claim for disability benefits
- 12:17-8.3 Payment of disability for nonstatutory employer
- 12:17-8.4 Simultaneous unemployment and disability
- 12:17-8.5 Payment of benefits for waiting period

**SUBCHAPTER 9. PROCEDURES FOR WAGE BENEFIT CONFLICTS**

- 12:17-9.1 Hearing required
- 12:17-9.2 Scheduling of hearing
- 12:17-9.3 Determination on failure to appear
- 12:17-9.4 Deputy to conduct hearing
- 12:17-9.5 Benefits continued where investigation necessary and claimant meets eligibility requirements
- 12:17-9.6 Determination on active claim
- 12:17-9.7 Determination and referral on noncurrent claim
- 12:17-9.8 Hearing if criminal prosecution is warranted
- 12:17-9.9 No suspension, termination or reduction of benefits without opportunity for hearing

**SUBCHAPTER 10. DETERMINATION AND DEMAND FOR REFUND OF UNEMPLOYMENT BENEFITS**

- 12:17-10.1 Issuance of demand for refund
- 12:17-10.2 Full waiver of recovery of overpayment
- 12:17-10.3 Repayment of unemployment benefits

## SUBCHAPTER 11. OFFSET OF UNEMPLOYMENT INSURANCE BENEFITS BY RETIREMENT

### AND PENSION INCOME

- 12:17-11.1 Base period or chargeable employer
- 12:17-11.2 Amount of reduction
- 12:17-11.3 Lump sum pension reduction

## SUBCHAPTER 12. DEPENDENCY BENEFITS

- 12:17-12.1 Definitions
- 12:17-12.2 Declaration of dependents
- 12:17-12.3 Verification and proof of dependency status
- 12:17-12.4 Payment

## SUBCHAPTER 13. BENEFIT ELIGIBILITY FOR CLAIMANTS EMPLOYED BY TEMPORARY

### HELP SERVICE FIRMS

- 12:17-13.1 Definitions
- 12:17-13.2 Employment with temporary help service firm under a written agreement
- 12:17-13.3 Employment with temporary help service firm without a written agreement

## APPENDIX

### SUBCHAPTERS 14 THROUGH 19. (RESERVED)

## SUBCHAPTER 20. WORKER PROFILING AND REEMPLOYMENT SERVICES PROGRAM

- 12:17-20.1 Purpose and scope
- 12:17-20.2 Definitions
- 12:17-20.3 Identifying claimants
- 12:17-20.4 Statistical modeling process
- 12:17-20.5 Selection
- 12:17-20.6 Mandatory participation
- 12:17-20.7 Exempted individuals
- 12:17-20.8 Appeals

## SUBCHAPTER 1. SEPARATION AND DISQUALIFICATION NOTICES

### 12:17-1.1 Statement to workers 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 requirement will subject the defaulting employer to the penalties prescribed in N.J.S.A. 43:21-16(c).

### 12:17-1.2 Request for separation or wage information

(a) Upon request by the Division of Unemployment and Temporary Disability Insurance 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 ten calendar days after the date of mailing the form covering such request, complete the form and return it to the unit which initiated the request.

(b) Failure to comply with such requests will subject the defaulting employer to the penalties prescribed in N.J.S.A. 43:21-16(b).

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

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

Deleted "Employment Security" and inserted "Unemployment and Temporary Disability Insurance".

### Case Notes

Defendant-employer's statements about plaintiffs were not absolutely privileged, but conditionally privileged. Rogozinski v. Airstream by Angell, 152 N.J.Super. 133, 377 A.2d 807 (Law Div.1977), modified 164 N.J.Super. 465, 397 A.2d 334 (App.Div.1979).

### 12:17-1.3 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 48 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 unemployment insurance claims 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 24 hours after the time designated in such notification, forthwith advise the local employment office service making the referral.

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

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

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

### 12:17-1.4 Notice of unemployment due to mass separation

(a) The term "mass separation" means the separation of 50 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, 48 hours prior to any mass separation, file a notice thereof with the local unemployment insurance claims 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 24 hours after the mass separation occurs.

(b) New claimants who have not received their first payment for full unemployment benefits early in the claims series, or have definite recall expectations, or secure work through a hiring hall shall not be identified as likely to exhaust his or her regular compensation.

#### 12:17-20.4 Statistical modeling process

(a) Claimants who are not excluded by the factors specified in N.J.A.C. 12:17-20.3 shall be passed through a statistical modeling process developed by the Division of Program Planning, Analysis and Evaluation in the New Jersey Department of Labor to determine their probability of exhausting benefits based on coefficients assigned to nondiscriminatory variables which shall include industry and/or occupation and may include, but are not limited to, the following:

1. Education;
2. Job tenure; and
3. Local area unemployment rate.

(b) Identified individuals shall be assigned a profiling score and ranked in order of probability of benefit exhaustion on a daily basis.

(c) The following characteristics cannot be used in the profiling system:

1. Age;
2. Race or ethnic group;
3. Gender;
4. Color;
5. National origin;
6. Disability;
7. Religion;
8. Political affiliation; and
9. Citizenship.

#### 12:17-20.5 Selection

(a) The highest ranked individuals shall be selected to attend an orientation session where the reemployment service program and the various services available shall be explained.

(b) Selection for participation in reemployment and other services shall be done on a weekly basis.

(c) The number of individuals selected to attend the orientation sessions shall be dependent upon the ability of the service provider to provide reemployment services.

(d) Individuals not selected for the orientation shall be returned to a candidate pool for as long as the selection date equals or is within 35 days of the date of claim.

#### 12:17-20.6 Mandatory participation

(a) Unless exempted under N.J.A.C. 12:17-20.7, claimants scheduled for an orientation session shall attend and claimants referred for services shall participate in the services offered in order to maintain eligibility for unemployment benefits. However, no individual shall involuntarily be required to attend or participate in vocational skills and/or education training.

(b) The eligibility for unemployment benefits of an individual who fails to participate as requested shall be adjudicated under N.J.A.C. 12:17-4.

(c) Interstate claimants shall be exempted from participation until the United States Department of Labor develops procedures for including them in worker profiling.

#### 12:17-20.7 Exempted individuals

(a) Individuals shall be exempted from reemployment services required under this subchapter if they:

1. Were incorrectly profiled (that is, an error was made on initial claim or in data entry);
2. Have returned to work;
3. Are working part-time;
4. Are currently receiving similar reemployment services;
5. Have recently completed similar reemployment services;
6. Are currently attending or registered to attend training;
7. Have become a member of an approved union hiring hall;
8. Are returning to work with a definite starting date;
9. Have received a definite date of recall from a former employer;
10. Are self-enrolled in UI approved training;
11. Are job ready for existing openings; or
12. Have moved and are now filing on an interstate basis, unless arrangements have been made for profiling and referring interstate claimants.

#### 12:17-20.8 Appeals

Appeals from denials of or ineligibility for benefits under this subchapter shall be decided in accordance with N.J.S.A. 43:21-6 and this chapter.