

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

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

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

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

SUBCHAPTER 3. DEFINITIONS

12:17-3.1 Weeks with reference to unemployment defined

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

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

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

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

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

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

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

Amended definition “week of partial unemployment.”

Case Notes

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

12:17-3.2 Week of disqualification defined

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

SUBCHAPTER 4. EMPLOYER RECORDS AND EVIDENCE CONCERNING PARTIAL UNEMPLOYMENT

12:17-4.1 Regular employee records

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

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

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

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

Substantially amended.

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

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

Added text “, as determined according . . .”

12:17-4.2 Evidence of weekly partial unemployment

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

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

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

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

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

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

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

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

(b) added.

Case Notes

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

SUBCHAPTER 5. CLAIM FOR PARTIAL UNEMPLOYMENT BENEFITS

12:17-5.1 Registration and filing

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

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

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

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

(a) substantially amended.

12:17-5.2 Extended registration period for cause

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

SUBCHAPTER 6. PAYMENT OF BENEFITS TO INTERSTATE CLAIMANTS

12:17-6.1 Cooperation with other states

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

12:17-6.2 Definitions

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

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

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

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

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

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

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

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

12:17-6.3 Registration for work

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

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

(b) The notice need not be on any prescribed form but shall state the claimant's full name, address and Social Security account number, as well as the date on which the claimant was too sick (or disabled) to work.

(c) The Director may, for good cause shown, extend the time for filing the required notice and grant credit, subject to the waiting period requirement, from the commencement of the disability.

(d) If the required notice is not filed within 30 days after the commencement of the period of disability and good cause for such failure is not shown, the claim shall be limited to the period commencing 30 days prior to the receipt of the required notice, subject to the waiting period requirement.

12:17-8.3 Payment of disability for nonstatutory employer

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 N.J.S.A. 43:21-4(f), if otherwise eligible.

12:17-8.4 Simultaneous unemployment and disability

Where, during a week of unemployment, an individual would be eligible for benefits under N.J.S.A. 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 an individual under N.J.S.A. 43:21-4(f), provided he is otherwise eligible and out of employment for at least two weeks.

12:17-8.5 Payment of benefits for waiting period

When benefits become payable under subsections (c) or (f) of N.J.S.A. 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.

SUBCHAPTER 9. PROCEDURES FOR WAGE BENEFIT CONFLICTS

Case Notes

Claimant was denied due process in penalty imposition where he received no prior notice of Division's intention to impose penalty and was not afforded an opportunity to be heard regarding its imposition. *Malady v. Bd. of Review, Div. of Employment Security*, 166 N.J.Super. 523, 400 A.2d 119 (App.Div.1979).

12:17-9.1 Hearing required

Where the Division of Unemployment and Disability Insurance has evidence that a claimant may have been employed during a period or periods for which he has received unemployment benefits, the division will afford the

claimant a hearing before any determination is made with respect to the alleged wage-benefit conflict.

Case Notes

Notice that unemployment compensation was to be repaid failed to meet requirements. *Agresta v. Board of Review, New Jersey Dept. of Labor*, 232 N.J.Super. 56, 556 A.2d 360 (A.D.1989).

Unemployment compensation claimant had procedural due process rights to notice and opportunity for fair hearing on repayment liability. *Agresta v. Board of Review, New Jersey Dept. of Labor*, 232 N.J.Super. 56, 556 A.2d 360 (A.D.1989).

12:17-9.2 Scheduling of hearing

(a) The local unemployment insurance claims office will schedule the hearing as soon as possible after the receipt of notification that a wage-benefit conflict may exist.

(b) If the claimant is in active reporting status, every effort will be made to schedule the fact-finding hearing on his next reporting date.

(c) A notice will be mailed to the claimant advising claimant of the necessity for a fact-finding hearing and listing the time and place thereof, and setting forth the times, periods and employers involved in the alleged wage-benefit conflict.

(d) If the hearing is scheduled after the claimant's next assigned reporting date, the notice will indicate the cancellation of the assigned reporting date appointment. If the claimant still reports on the date so cancelled, the hearing will be held at the time he reports.

12:17-9.3 Determination on failure to appear

If the claimant fails to report for the hearing, the local office will complete a written determination thereon, and mail a copy thereof to the claimant.

12:17-9.4 Deputy to conduct hearing

(a) If the claimant reports, the hearing will be conducted by a local office deputy.

(b) At the outset of the hearing, the deputy will inform the claimant that the division has information that the claimant has claimed and received unemployment benefits for weeks during which the claimant was employed.

(c) Form B-98B (Claimant's benefit payment and employment record) will be shown to the claimant as the basis for the allegations.

(d) The deputy will prepare the claimant's statement or any rebuttal or confirmation of the allegations.

(e) Any additional evidence presented by the claimant will be fully documented by the deputy.

(f) The claimant will be asked to read the statement and to sign it if it is acceptable to him.

Case Notes

N.J.A.C. 12:17-9.4(c) form cited as part of fraud investigation; trial court findings of intentional or knowing misrepresentation and concealment of true employment status upheld. *State v. Moore*, 158 N.J.Super. 68, 385 A.2d 867 (App.Div.1978).

12:17-9.5 Benefits continued where investigation necessary and claimant meets eligibility requirements

If the claimant is currently receiving benefits on an active claim and has presented evidence which the deputy believes warrants further investigation, the local office will continue to pay benefits, if all other eligibility requirements are met; explain to the claimant that further investigation will be made and the reasons why further investigation appears necessary; and forward all related material to the Fraud Inspection Section, Bureau of Unemployment Benefits, where further action will be taken.

12:17-9.6 Determination on active claim

(a) If claimant is currently receiving benefits on an active claim and admits that the allegations are true or denies the allegations but offers no evidence that warrants further investigation, the deputy will complete a written determination and the reasons therefor and issue same to the claimant.

(b) If the determination is adverse to the claimant, the deputy will explain to the claimant his appeal rights and will also discuss the various methods of repayment with the claimant.

(c) If any compensable weeks paid on the claim fall within the 17-week disqualification period set forth in N.J.S.A. 43:21-5(g)(1), the deputy will prepare a written determination and deliver a copy thereof to the claimant.

12:17-9.7 Determination and referral on noncurrent claim

(a) If claimant is not currently receiving benefits and has presented evidence that warrants further investigation, the deputy will explain to the claimant that further investigation will be made, list the reasons why further investigation appears to be necessary and forward all related material to the Fraud Inspection Section, Bureau of Unemployment Benefits, where further action will be taken.

(b) If claimant is not currently receiving benefits and admits that the allegations are true or is unable to offer evidence warranting further investigation, the deputy will explain to the claimant that a determination will be mailed to him.

12:17-9.8 Hearing if criminal prosecution is warranted

If the director of the division determines that criminal prosecution of a claimant may be warranted, claimant will be afforded an opportunity for a hearing before a deputy specially designated by the director and at the outset of the hearing claimant will be advised that any statements made by him may be used against him if the matter is referred for criminal prosecution.

12:17-9.9 No suspension, termination or reduction of benefits without opportunity for hearing

No benefits will be suspended, terminated or reduced under this subchapter unless claimant has been afforded an opportunity to appear at a hearing as set forth therein.

SUBCHAPTER 10. DETERMINATION AND DEMAND FOR REFUND OF UNEMPLOYMENT BENEFITS
Case Notes

Former rules upheld as not in conflict with the purpose of unemployment compensation law as not incompatible with law requiring Director's discretion in ordering repayment of benefit overpayments. *Vasquez v. Horn*, 181 N.J.Super. 529, 438 A.2d 570 (App.Div.1981), certification denied 91 N.J. 196, 450 A.2d 530 (1982).

12:17-10.1 Issuance of demand for refund

A demand for refund of unemployment benefits will be issued in each case when a determination of overpayment is made.

Case Notes

Notice that claimant was liable to repay unemployment compensation received during period of ineligibility did not comply with requirement to give prior notice of liability for refund and order for refund. *Agresta v. Board of Review*, New Jersey Dept. of Labor, 232 N.J.Super. 56, 556 A.2d 360 (A.D.1989).

Unemployment compensation claimant had procedural due process rights to notice and opportunity for fair hearing on repayment liability. *Agresta v. Board of Review*, New Jersey Dept. of Labor, 232 N.J.Super. 56, 556 A.2d 360 (A.D.1989).

12:17-10.2 Full waiver of recovery of overpayment

(a) Upon application by the claimant or the executor (or administrator) of the claimant's estate full waiver of recovery of overpayments will be granted by the director if it can be demonstrated to the satisfaction of the director that the following conditions have been met.

1. The claimant did not misrepresent or withhold any material fact in obtaining benefits; and

2. The claimant is deceased or permanently disabled and no longer able to work. A claimant's current receipt of social security disability benefits will be deemed conclusive proof of current permanent disability. In the absence of such proof the director may accept a diagnosis of permanent disability from the claimant's physician. At the discretion of the director, the claimant shall submit to an impartial physical examination by a legally-licensed physician at the expense of the State.

(b) The demand for refund will advise the claimant of the right to waiver of recovery in the situations described above.

Case Notes

Regulation did not limit scope of director's authority to waive repayment and require compliance with repayment demand. *Hopkins v. Board of Review*, 249 N.J.Super. 84, 591 A.2d 1371 (A.D.1991).

Appeal Tribunal's reference to rule in denying temporary disability benefits and demanding refund of payments made was misplaced. *Ross v. Bd. of Review Dep't of Labor*, 212 N.J.Super. 467, 515 A.2d 794 (App.Div.1984).

12:17-10.3 Repayment of unemployment benefits

All overpayments for which waiver or recovery are not granted pursuant to N.J.A.C. 12:17-10.2 must be repaid in full. The Division may use any means of collection provided by law to satisfy the debt including, but not limited to, offsets permitted under P.L. 1981, Chapter 239, N.J.S.A. 54A:9-8.1 and 8.2. Any individual with an outstanding overpayment who subsequently becomes entitled to benefits shall have such benefits offset by the debt until the debt is repaid in its entirety. However, for any claimant whose overpayment is determined to be the result of Agency error, the offset amount shall be limited to 50 percent of the claimant's weekly benefit rate for each week of benefits subsequently claimed.

SUBCHAPTER 11. OFFSET OF UNEMPLOYMENT INSURANCE BENEFITS BY RETIREMENT AND PENSION INCOME

12:17-11.1 Base period or chargeable employer

(a) For weeks of unemployment beginning on or after January 1, 1981, the requirements of Section 1, of Chapter 13, P.L. 1980, shall apply only where such pension, retirement or retired pay, annuity, or other similar payment is under a plan maintained or contributed to by a base period or chargeable employer as determined under N.J.S.A. 43:21-1 et seq.

(b) In the case of such a payment, not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) which do not affect eligibility for, or increase the amount of such pension, retirement or retired pay, annuity, or similar payment shall not cause any reduction in the amount of benefits payable to such individual.

12:17-11.2 Amount of reduction

(a) For weeks of unemployment beginning on or after January 1, 1981, the amount of any such reduction shall be determined by taking into account contributions made by the individual for the pension, retirement or retired pay, annuity or other similar periodic payment. The following schedule will apply.

1. If such payment is made under a plan to which the individual did not contribute, the amount of benefits payable to such individual for any week will be reduced by an amount equal to the amount of such pension, retirement or retired pay, annuity or other payment which is reasonably attributable to such week provided that the reduced weekly benefit amount will be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

2. If such payment is made under a plan to which the individual contributed (but less than 100 percent), the amount of benefits payable to such individual for any week will be reduced by an amount equal to 50 percent of the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week, provided that the reduced weekly benefit amount will be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

3. No reduction in benefits shall be made if the pension, retirement or retired pay, annuity or other similar periodic payment received by the individual is from an Old Age Social Security pension to which the individual has made any contribution.

4. If such payment is made under a plan to which the individual contributed 100 percent, the amount of benefits payable to such individual for any week shall not be reduced.

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

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

"lower" substituted for "higher".

Amended by R.1985 d.718, effective February 3, 1986.

See: 17 N.J.R. 2736(a), 18 N.J.R. 285(b).

Added "not" to (a)3.

Amended by R.1993 d.590, effective November 15, 1993.

See: 25 N.J.R. 3923(a), 25 N.J.R. 5352(a).

Law Review and Journal Commentaries

Unemployment Compensation—Retirement. Steven P. Bann, 135 N.J.L.J. No. 13, 58 (1993).

Case Notes

Weekly unemployment compensation benefit rate properly reduced to zero. *Trupo v. Board of Review*, 268 N.J.Super. 54, 632 A.2d 852 (A.D.1993).

Early retirement benefit package payment was a retirement payment for purposes of statute governing amount of unemployment compensation benefits payable. *Trupo v. Board of Review*, 268 N.J.Super. 54, 632 A.2d 852 (A.D.1993).

12:17-11.3 Lump sum pension reduction

For weeks of unemployment beginning on or after the effective date of this section, in those cases where an individual is the recipient of a lump sum payment from his or her employer in lieu of a periodic payment of a pension, retired or retirement payment, annuity or other similar periodic payment, the calculation for the reduction of benefits shall be made, consistent with the provisions of N.J.A.C. 12:17-11.1 and 12:17-11.2, by prorating the dollar value of

the payment over the life expectancy of the individual at the time of separation from the employer using approved actuarial tables.

R.1983 d.602, effective January 3, 1984.
See: 15 N.J.R. 1436(a), 16 N.J.R. 51(a).

Case Notes

Rule found valid and consistent with legislative policy, although neither challenged nor necessarily controlling in this case. *Schuene-mann v. Bd. of Review*, 208 N.J.Super. 48, 504 A.2d 1204 (App.Div. 1986).

SUBCHAPTER 12. DEPENDENCY BENEFITS

12:17-12.1 Definitions

“Dependent” means an individual who is unemployed during the calendar week in which the claimant files an initial or transitional claim, and is eligible to be claimed as a dependent under provisions of Federal and State income tax law, and is the claimant’s:

1. Spouse, that is, a person to whom the claimant is legally married; and is a dependent; or
2. Dependent unmarried child, that is, son, daughter, stepson, stepdaughter, legally adopted son or legally adopted daughter under the age of 19, or under the age of 22 and is attending an educational institution as defined in N.J.S.A. 43:21-19(y).

12:17-12.2 Declaration of dependents

(a) An individual shall declare in writing, on an application form prescribed by the Division of Unemployment and Temporary Disability Insurance dependents claimed in accordance with N.J.S.A. 43:21-3(c)(2) on the date that the individual files an initial or transitional claim to establish a benefit year. In accordance with N.J.A.C. 12:17-12.3, the individual shall agree to provide proof of those dependents claimed in a form and manner prescribed by the Division.

(b) If both unemployed spouses establish initial or transitional claims on or after September 30, 1984, with benefit years or benefit rights which are concurrent in any part, only one of those claimants may receive dependency allowance benefits even though the total number of dependents of the claimant may exceed three.

(c) If an individual is ineligible to receive dependency benefits in any amount because covered earnings in the base year entitle the individual to the maximum weekly benefit rate payable under N.J.S.A. 43:21-3(c)(1), the individual’s spouse may declare the same dependent(s) on an initial or transitional claim the spouse may establish during the benefit year of the individual.

(d) The death of a claimant during the benefit of a claim which includes a dependency allowance shall constitute termination of the assignment of eligible dependent(s) to that claim as of the date of the claimant’s death.

12:17-12.3 Verification and proof of dependency status

(a) An individual who claims a dependent for allowance purposes shall provide to the Division within 28 days (42 days for those individuals filing interstate claims with New Jersey as the liable State and for those individuals filing claims for disability benefits during unemployment) from the date of the claim appropriate verification and proof of the declared dependency status, which may include but is not limited to: Federal or State income tax return(s) filed for the tax year immediately preceding the filing of the application for dependency allowance; (if the tax return is not a joint return, the individual tax return for the spouse being claimed as a dependent will be submitted); birth, baptismal, or marriage certificate(s) or certified copies thereof; divorce, annulment or adoption decree(s) or certified copies thereof; divorce, annulment or adoption decree(s) or certified orders or any other legal documents which verify the status of claimed dependents.

(b) If a married claimant declares an unemployed spouse as a dependent, the spouse’s social security number shall be provided to the unemployment claims office no later than 28 days from the date of claim.

(c) An individual who is eligible for unemployment compensation benefits and who has not yet submitted the required verification and proof of declared dependency status shall be paid the determined weekly benefit rate, which includes the dependency allowance based on the declared number of eligible dependents, until the prescribed period for satisfying the verification and proof requirement has elapsed.

(d) If the verification and proof requirement is not satisfied in a timely manner, the claimant’s entitlement to dependency allowance benefits for weeks paid on the claim shall be redetermined, and the claimant shall be liable for full reimbursement to the Division of benefits paid based on the unverified dependency status. The Division shall use all methods provided by law to recover these overpayments. Such methods shall include, but not be limited to, deducting the overpaid amount from any future benefits which may be otherwise due the claimant.

(e) Any individual who is determined by the Division to have illegally received or attempted to receive dependency benefits as the result of any false or fraudulent representation shall be subject to the disqualification and penalty provisions of N.J.S.A. 43:21-5(g) and 43:21-16.

12:17-12.4 Payment

(a) The claimant shall not be paid dependency benefits for any week for which no regular or extended unemployment benefits are payable.

(b) If a claimant is eligible for partial unemployment benefits for a week claimed, the benefit payment shall equal the difference between 120 percent of the established weekly benefit rate (which includes any determined dependency allowance) and the individual's remuneration earned during the week claimed.

SUBCHAPTER 13. BENEFIT ELIGIBILITY FOR CLAIMANTS EMPLOYED BY TEMPORARY HELP SERVICE FIRMS

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.112, effective February 20, 1996.
See: 27 N.J.R. 4124(a), 28 N.J.R. 1219(a).

12:17-13.1 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings:

“Temporary help service firm” means a business which consists of employing individuals directly or indirectly for the purpose of assigning the employed individuals to assist the firm's customers in the handling of the customers' temporary, excess or special work loads, and who, in addition to the payment of wages or salaries to the employed individuals, pays Federal social security taxes and State and Federal unemployment insurance and carries worker's compensation insurance as required by State law. A temporary help service firm is required to comply with the provisions of N.J.S.A. 56:8-1 et seq.

“Written agreement” means a signed understanding between a temporary help service firm and the employee which:

1. Outlines the scope of employment;
2. Includes the general type of work to be performed, salary parameters, and acceptable commuting distance for assignments;
3. Requires that the employee contact the temporary help service firm upon completion of an assignment; and
4. States that unemployment benefits may be denied for failure to fulfill this obligation.

12:17-13.2 Employment with temporary help service firm under a written agreement

(a) If an individual whose claim is based on employment with a temporary help service firm is offered a new assignment and fails to accept continuing employment from the firm within the scope of employment as outlined in the written agreement and a definite starting date of the new assignment is no later than four weeks from the ending date of the current assignment, the claim for benefits shall be reviewed as a voluntary leaving of work issue under the provisions of N.J.S.A. 43:21-5(a). If the firm's offer of a new assignment contains terms and conditions of employment that are substantially different from those outlined in the written agreement or the starting date of the new assignment is indefinite or more than four weeks from the ending date of the current assignment, then the claim for benefits shall be reviewed as a suitable work issue under the provisions of N.J.S.A. 43:21-5(c).

(b) An individual's claim which is based on employment with a temporary help service firm shall be reviewed as a voluntary leaving of work issue under the provisions of N.J.S.A. 43:21-5(a) if the individual fails to contact the temporary help service firm for reassignment in accordance with the terms of the written agreement.

12:17-13.3 Employment with temporary help service firm without a written agreement

(a) If an individual whose claim is based on employment with a temporary help service firm is offered a new assignment and fails to accept continuing employment from the firm under similar terms and conditions and a definite starting date of the new assignment is no later than four weeks from the ending date of the current assignment, the claim for benefits shall be reviewed as a voluntary leaving of work issue under the provisions of N.J.S.A. 43:21-5(a). If the firm's offer of a new assignment contains terms and conditions of employment that are substantially different from the terms and conditions of the current assignment or the starting date of the new assignment offered is indefinite or more than four weeks from the ending date of the current assignment, then the claim for benefits shall be reviewed as a suitable work issue under the provisions of N.J.S.A. 43:21-5(c).

(b) An individual's claim which is based on employment with a temporary help service firm shall be reviewed as an available for work issue under the provisions of N.J.S.A. 43:21-4(c) if the individual fails to contact the firm for reassignment upon completion of an assignment if there is no written agreement between the temporary help service firm and the individual.

APPENDIX

ELIGIBILITY CONDITIONS FOR TEMPORARY HELP SERVICE FIRM CLAIMANTS

Separation with Signed Agreement	<p><u>Failure to Contact for Reassignment</u> <u>Voluntary Leaving Issue</u></p>	<p><u>Refusal of New Assignment</u> <u>Voluntary Leaving issue if:</u> —within scope of agreement; and —starts within four weeks; and —offered at end of current assignment (N.J.S.A. 43:21-5(a))</p>	<p>Refusal of Suitable Work issue if: —not within scope of agreement; or —starts in more than four weeks; or —offered after end of current assignment (N.J.S.A. 43:21-5(c))</p>
	<p>(N.J.S.A. 43:21-5(a))</p>	<p><u>Voluntary Leaving issue if:</u> —new job similar in terms and conditions to last assignment; and —starts within four weeks; and —offered at end of current assignment (N.J.S.A. 43:21-5(a))</p>	<p>Refusal of Suitable Work issue if: —terms and conditions of new job are not similar to last assignment; or —starts in more than four weeks; or —offered after end of current assignment (N.J.S.A. 43:21-5(c))</p>
Separation without Signed Agreement	<p>Availability Issue</p>	<p><u>Voluntary Leaving issue if:</u> —new job similar in terms and conditions to last assignment; and —starts within four weeks; and —offered at end of current assignment (N.J.S.A. 43:21-5(a))</p>	<p>Refusal of Suitable Work issue if: —terms and conditions of new job are not similar to last assignment; or —starts in more than four weeks; or —offered after end of current assignment (N.J.S.A. 43:21-5(c))</p>
	<p>(N.J.S.A. 43:21-4(c))</p>	<p>(N.J.S.A. 43:21-5(a))</p>	<p>(N.J.S.A. 43:21-5(c))</p>