

**RULES
OF
GEORGIA DEPARTMENT OF LABOR**

**CHAPTER 300-2
EMPLOYMENT SECURITY LAW**

**SUBJECT 300-2-4
UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS**

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Rule 300-2-4-.01. Filing a Claim for Regular Unemployment Insurance Benefits

Pursuant to the provisions of OCGA Sections 34-8-190, 34-8-191, and 34-8-195, filing claims:

(a) Total and part-total claims. Total and part-total claims must be filed by an individual in the manner specified by the department. After filing a claim, an individual is required to register for work as provided in GDOL Rule 300-2-4-.02 and report to the department on the claim as provided in GDOL Rule 300-2-4-.03.

(b) Partial claims (employer filed claims). Employer filed claims must be filed by an employer as provided in GDOL Rule 300-2-4-.09. After filing a claim, both the employer and the individual are required to report to the department on the claim as provided in GDOL Rule 300-2-4-.03.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70(b), 34-8-191, 34-8-195(a)(2).

Rule 300-2-4-.03. Reporting Requirements on Claims

(1) Total and part-total claims.

(a) Weekly certification of eligibility.

1. To request payment for a week of unemployment insurance benefits after filing a claim, an individual shall timely complete a weekly certification of eligibility as directed by the department.

2. Timely weekly certification.

(i) An individual must wait until a benefit week has ended to request a benefit payment for such week.

(ii) An individual may request a week of benefit payments no later than two weeks after the end of such benefit week, provided, however, that an individual may not request payment for any claim week ending before the date the initial benefit claim was filed.

(iii) Failure to request a week of benefit payment on time will result in an individual being considered ineligible for benefits for that week.

(iv) Failure to request three or more consecutive weeks of benefit payments may result in an individual being required to reopen their claim by filing a new application for benefits.

(b) Reporting on work search. An individual is required to conduct an active work search during each week that benefits are claimed and report on such work search activities as directed

by the department. Unemployment benefits shall cease to be payable for failure to conduct an active work search or timely report on work search activities to the department.

(c) Reporting on any other matter affecting eligibility. An individual is required to timely report as directed by the department on any matter which, in the discretion of the department, may affect eligibility for benefits. Unemployment benefits shall cease to be payable for failure to timely report to the department.

(2) Partial claims (employer filed claims).

(a) Weekly certification of eligibility. To request payment for a week of unemployment insurance benefits for which an employer has filed an employer filed claim on behalf of an individual, an individual may be required to complete a weekly certification of eligibility as directed by the department.

(b) Reporting. Both the employer and the individual shall report as directed by the department on any other matter affecting eligibility in the same manner as for total or part-total claims. Unemployment benefits shall cease to be payable for failure of either to timely report to the department.

(3) For reasons found to constitute good cause, a claimant unable to report to the department as directed may be permitted to report within the two (2) day period following the date the claimant was directed to report. Good cause is defined as circumstances beyond the claimant's control, such as:

(a) An "act of God" or similar event which prevented the claimant from timely reporting;

(b) Death of an individual's immediate family member.

(i) The reporting requirements shall be waived for the day of the death and for four (4) consecutive calendar days thereafter.

(ii) As used in this rule, "immediate family member", means a spouse, child, stepchild, adopted child, grandchild, parent, grandparent, brother or sister of the individual or his or her spouse and the spouse of any of the foregoing; or

(c) Personal illness or disability of a temporary nature of claimant or a dependent family member which occurred in such a way to prevent the claimant from timely reporting, and the claimant made diligent efforts to give notice to the department prior to the time for the scheduled reporting date.

(4) Notwithstanding any provision of this rule, any notice of appeal must be filed within the time limitations specified in Chapter 5 of these rules.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70, 34-8-190, 34-8-191.

Rule 300-2-4-.08. Overpayments

(1) Repayment. An individual shall be required to repay an overpayment of unemployment compensation unless a written application for waiver is filed with the department and approved by the Commissioner or the Commissioner's designee.

(2) Methods of collection. In the discretion of the department, an overpayment may be collected in any manner provided by law for the general collection of debts, the collection of debts owed a governmental entity, or any other method of collection specifically authorized in Chapter 8 of Title 34, the Employment Security Law.

(3) Overpayment waiver.

(a) Waiver not permitted.

1. Fraud overpayment. An application for waiver shall not be accepted for any overpayment the department determined was the result of fraud attributable to the individual.

2. Federal law. An application for waiver shall not be approved when waiver would be prohibited by federal law or regulation, regardless of an individual's fault.

(b) Timeliness of waiver request.

1. An application for waiver shall not be approved if it is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment, provided, however, that the time limitation may be extended upon a showing of extenuating circumstances which prevented the filing of a timely application for waiver by the individual and such circumstances were beyond the individual's control.

2. Special rule for Covid-19 Pandemic overpayments.

(i) For any Notice of Overpayment that established an overpayment for one or more claim weeks ending February 8, 2020, through June 26, 2021, the fifteen (15) day time limitation to file an application for waiver of overpayment may, in the discretion of the Commissioner or the Commissioner's designee, be waived.

(ii) An individual whose application for waiver of overpayment was denied prior to April 15, 2022, for failure to file a timely application for waiver of overpayment may request a redetermination; provided, however, that only overpayment weeks ending February 8, 2020, through June 26, 2021, shall be eligible for redetermination. A redetermination with respect to eligible weeks shall be made in accordance with the provisions of this rule.

(c) Suspension of collections. Collection of an overpayment will be suspended upon the filing of an application for waiver and while the application for waiver is pending.

(d) Requirements for approval of waiver.

1. An application for waiver of overpayment of unemployment compensation shall be approved only if:

(i) The individual is determined to be without fault in the cause of the overpayment; and

(ii) Repayment of the overpayment is determined to be contrary to equity and good conscience.

2. An individual shall be determined to be at fault in the cause of the overpayment if the individual brought about such overpayment by the presentation of false or misleading statements or representations, whether or not such action has been determined fraudulent, when such individual could have or should have known the presentation of such information was false or misleading.

3. Repayment of the overpayment shall be determined contrary to equity and good conscience if:

(i) The individual provides satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual, such that recovery of the overpayment would result directly in the individual's loss of or inability to obtain the minimal necessities of food, medicine, and shelter for a substantial period of time and such circumstances may be expected to endure for the foreseeable future; and

(ii) The individual provides satisfactory evidence that he or she has no reasonable prospect of future employment or ability to repay the overpayment in the future, due to age, disability, or other good cause.

(e) Burden of proof. The burden of proof shall be on the individual to show the requirements for waiver are met. The individual must specify on the application for waiver why they were

without fault in the cause of the overpayment, why repayment would be contrary to equity and good conscience, and include supporting documentation.

(f) Applications for waiver considered on own individual merits. The department shall consider each individual's waiver application separately on its own merits, with due consideration of the facts and circumstances of each individual case; provided, however, that this limitation shall not apply if the federal government authorizes and approves the department to issue a blanket waiver to a group of similarly situated individuals.

(g) Decision and appeal rights. The Commissioner or the Commissioner's designee shall notify each individual in writing whether the application for waiver of overpayment has been approved or denied. The decision of the Commissioner or the Commissioner's designee shall become final unless the individual appeals the decision within 15 days after the notice was mailed or otherwise delivered to the individual.

(h) Refunds. Upon approval of an application for waiver, the department shall not refund any amount collected on the applicable overpayment unless federal law or regulations specifically require a refund to be issued, in which case only those amounts required by federal law or regulations shall be refunded.

(i) Effect of judicial proceedings. A waiver of an unemployment insurance overpayment may be issued by the department in whole or in part upon the finding of a court of law having proper subject matter jurisdiction which rules that error existed in the information utilized to establish such overpayment, whether or not such overpayment was determined to be fraudulent in nature. Additionally, if a court finds repayment of an overpayment should be waived by virtue of discharge in bankruptcy under federal bankruptcy law, waiver will be granted.

(4) Federal conformity. This rule shall apply and be given effect only to the extent it is consistent with federal law and regulations, and would not create a federal conformity issue.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70(b), 34-8-254(c).

Rule 300-2-4-.09. Employer Filed Partial Unemployment Claims

(1) Claim filing. Employer filed partial unemployment claims may be filed by an employer with respect to any complete pay-period week during which an otherwise full-time employee works less than full-time due to lack of work only, and earns an amount not exceeding:

(a) The individual's unemployment insurance weekly benefit amount, if known, plus Non-deductible Earnings, or

(b) The maximum weekly benefit amount provided in the Employment Security Law, plus Non-deductible Earnings, if the individual's unemployment insurance weekly benefit amount is not known.

(2) Approval of claims. Payments shall be made for partial unemployment only upon the approval of the Commissioner. Approval shall be based upon the conditions set forth in these regulations.

(3) Effect of approved claim. A properly completed and approved employer filed partial unemployment claim shall constitute a claim for unemployment insurance benefits on behalf of an employee with respect to the week of partial unemployment covered by the claim.

(4) Notice of approval. The Department will furnish the employer with notice of the approval of the initial employer filed partial claims; however, because employer filed partial unemployment claims are employer-initiated claims based upon lack of work, such employers will not receive

Form DOL-1199FF (notice of initial claim) with respect to these claims. The employer will receive its quarterly notification of charges against its account as provided by O.C.G.A. Section 34-8-157(d) and O.C.G.A. Section 34-8-159.

(5) Permitted duration of claims. Six (6) consecutive weeks of total unemployment immediately following a week of full-time or part-time employment may be claimed by an employer.

Following those six (6) consecutive weeks of total unemployment, an employer who requests permission and shows justifiable cause may, upon approval of the Commissioner, file employer filed partial unemployment claims for four (4) additional weeks of total unemployment, provided the employer provides a firm return to work date for such employees within the four (4) week time period.

(6) Required notification to employee. The employer shall immediately advise the employee to report to the Department for the purpose of registering for work and reporting on his or her claim upon the earliest of:

- (a) The employer being unable to provide a firm return to work date;
- (b) The expiration of the approved time period for acceptance of employer filed partial unemployment claims passes; or
- (c) The employer ceases filing employer filed partial unemployment claims for any totally unemployed worker.

(7) Filing requirements.

(a) The Commissioner may require the filing of all employer filed partial unemployment claims electronically.

(b) The employer shall complete an affidavit in such form as approved by the Commissioner with respect to the employer filed partial unemployment.

(c) An employee may be required to complete an applicant profile, identity verification, and a weekly certification of eligibility to receive payment for a week of partial unemployment.

(8) Limitations on employer filed partial claims. Employer filed partial unemployment claims shall not be submitted or allowed for:

- (a) Unemployment due to any cause other than lack of work;
- (b) Vacation days regardless of whether such vacation days were requested by the employee or established by the employer, except that such claims are permitted during an employer company shutdown or employer established vacation period when such shutdown or vacation period is due to circumstances outside the employer's control which directly affect the employer's business operations;
- (c) Regular breaks in seasonal employment, except that employer filed partial unemployment claims may be filed when unusual circumstances require a break in employment at a time of normal, non-seasonal work;
- (d) Any claim week:
 - 1. Ending more than thirty (30) days in the past; or
 - 2. Ending within 5 years of the date the employer's account was newly registered with the department;
- (e) Any employee:
 - 1. Who has any other issue as to entitlement of unemployment benefits, in which case, the employee will be required to file their own individual claim for benefits;
 - 2. Who is engaged in Part-time Employment as defined in these rules (in other words, employer filed partial claims may only be filed for an employee engaged in Full-time

Employment – an employee engaged in Part-time Employment must file their own individual claim for benefits); or

3. For whom an employer has not reported wages to the Department on at least one prior tax and wage report; or

(f) Any employer with delinquent quarterly tax and wage reports or delinquent taxes, reimbursements in lieu of contributions, assessments, penalties, or interest owed to the Department.

(9) Waiver of limitations. In the discretion of the Commissioner, the limitations set forth in paragraph (8) may be waived. Waiver requests should be submitted in writing to UI Claims Administration.

(10) Fraud and abuse. Any employer found by the Commissioner to have abused the purpose and intent of the employer filed partial claims program or found to have filed a fraudulent employer filed partial claim shall, in the discretion of the Commissioner or the Commissioner's designee, be restricted from filing employer filed partial claims and any employer filed partial claims previously filed by the employer may be cancelled. In addition to the criminal penalties provided in the Employment Security Law, the Department may require repayment by the employer of any amounts paid for fraudulent employer filed partial unemployment claims filed by the employer.

Authority: O.C.G.A. §§ 34-8-2-6(a)(4), 34-8-47, 34-8-70(b), 34-8-190.

**RULES
OF
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**CHAPTER 300-2
EMPLOYMENT SECURITY LAW**

**SUBJECT 300-2-7
REQUIREMENTS FOR EMPLOYEES AND EMPLOYERS**

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Rule 300-2-7-.06. Notices Required From Employers Furnishing Separation Information

Rule 300-2-7-.06. Notices Required From Employers Furnishing Separation Information

(1) Employers are required to complete Form DOL-800, "Separation Notice", for each worker separated regardless of the reason for separation (except when mass separation Form DOL-402 and Form DOL-402A notices are filed).

(a) The "Separation Notice" must be completed, signed by the employer or authorized agent, dated and delivered to the separated employee in electronic or hard copy format on the last day of work in accordance with printed instructions on the Form DOL-800.

(b) If the employee is no longer available at the time employment ceases, thus preventing the employer from delivering the notice to the separated employee on the last day of work, the notice shall be mailed to the last known address of the employee within three (3) days of the date that the separation occurred or became known to the employer.

(c) A copy of Form DOL-800, properly executed by the former employer as required by Georgia law, shall be presented to the Georgia Department of Labor local office by any individual filing a claim for unemployment insurance.

(2) The employer, if it is the most recent employer as defined by OCGA Section 34-8-43, may receive a Form DOL-1199FF or DOL- 403FF, "Notice of Claim Filed and Request for Separation Information".

(a) If the Form DOL-800 was presented, the employer may respond and provide separation information on Form DOL-1199FF or Form DOL-403FF if they wish to do so. This shall constitute a timely response to the claim.

(b) If the Form DOL-800 was not presented, in order to be considered a timely response to the claim, the employer must respond to the claimant's statement on the Form DOL-403FF or Form DOL- 1199FF in the manner prescribed herein and in accordance with the instructions printed on the Form 403FF or Form DOL-1199FF.

(3) Form DOL-800 or Form DOL-403FF or Form DOL-1199FF must be signed and otherwise complete for the employer's account to be considered as a timely response to the claim.

Authority: O.C.G.A. Secs. 34-2-6-(a)(4), 34-8-70(b), 34-8-190(c).