

CHAPTER 300-2-4 UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS

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300-2-4-.01 Regular Unemployment Insurance Benefit Payments. Amended.

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. To file a claim for total or part-total unemployment, an individual must report in person at the local Georgia Department of Labor office most accessible to the individual, and file a claim on forms specified by the Department of Labor. Registration for work with the department is required as directed by the department and failure to register may cause benefits to be withheld.

(b) Partial Claims. Form DOL-408, "Weekly Report of Low Earnings", properly completed, shall constitute a claim for compensable credit with respect to such week of partial unemployment covered by the claim. Form DOL-408, "Weekly Report of Low Earnings", shall be completed by the employer and furnished to the employee no more than thirty (30) days from the end of the employer's payroll week during which employee worked less than full-time. Provided such employee may, upon failure of the employer to provide such forms, file such claim at the nearest claims office of the department. Such claims must be filed within sixty (60) days from the end of the employer's payroll week in which said claimant worked less than full-time. Provided, further, that the limitations imposed hereunder may, in the discretion of the Commissioner or the Commissioner's designee, be waived upon the showing of extenuating circumstances.

Authority O.C.G.A. Secs. 34-8-70, 34-8-170, 34-7-190.

300-2-4-.02 Registration of Claimants for Possible Referrals to Job Openings. Amended.

(1) Claimants are required to report as directed by the department to register with the department's Field Service Office for screening and referral to employers who are currently offering employment (except as provided below). Unemployment benefits will cease to be payable unless registration has been completed as directed. The department will notify claimants from time to time to report to the department to give reports on work search activities and for the department to make job referrals as appropriate.

(2) Exceptions to registration requirements are granted to qualified applicants who are:

(a) On short term layoff but who have a definite date of recall to their previous employment

within six (6) weeks of the last day worked;

(b) Partial claimants as described in Section 300-2-4-.01 of these rules;

(c) Claimants who are attending training approved by the Commissioner;

(d) Members of unions who routinely and regularly receive all of their job referrals from so-called hiring halls or similar placement facilities and whose eligibility for membership in the union would automatically cease upon acceptance of other work; and

(e) Claimants involved in a strike or similar labor dispute, provided, however, claimants who have been locked out of their job must register with the department for possible job referrals if so directed by the department.

Authority O.C.G.A. Secs. 34-8-70, 34-8-150, 34-8-155, 34-8-158(3), 34-8-170, 34-8-191.

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

(1) Total claims. To claim credit for weeks of unemployment subsequent to a claim filed pursuant to this Section the claimant shall report as directed by the local office of the department at which the claim was filed.

(a) For reasons found to constitute good cause, a claimant unable to report on the claimant's regular reporting day to the local office at which the claimant filed the claim may be permitted to report at any local office of the department within the two (2) day period following the claimant's regular reporting day.

(b) A claimant may report by mail for the week of unemployment which immediately precedes the date of the claimant's reemployment to a full-time job, provided the claimant filed a claim at the beginning of the week for which the claimant claims unemployment insurance.

(c) Partial claims. Form DOL-408, "Weekly Report of Low Earnings", mailed or delivered by the employer to the Georgia Department of Labor, shall constitute such claimant's report on the individual's claim, provided that such form is properly executed by both employer and claimant. (See Rule 300-2-4-.09).

(2) 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. Secs. 34-8-51(b)(2), 34-8-70, 34-8-170, 34-8-190.

300-2-4-.04 Unemployment Insurance Extended Benefit Payments. Amended.

Except where the result would be inconsistent with provisions of OCGA Section 34-8-197, all portions of these rules which apply to claims for, or the payment of regular benefits shall apply to claims for,

and the payment of extended benefits.

Authority O.C.G.A. Secs. 34-8-70, 34-8-151, 34-8-155, 34-8-170, 34-8-190.

300-2-4-.05 Employer Supplemental Unemployment Benefit Payments. Amended.

(1) All employers who have signed a contract agreeing to make contributions to a trust fund from which supplemental unemployment benefits may be paid to its unemployed workers, shall immediately furnish to the department a copy of the agreement and subsequent changes or amendments. It shall be determined whether the contract in reality provides for a supplemental plan such as is permitted under OCGA Section 34-8-49(b)(2) and 34-8-45 and one which will not prevent payment of unemployment insurance to employees who meet all eligibility requirements.

(2) To be approved as a valid supplemental unemployment benefit plan, the following conditions must be met:

(a) The employer must submit a written request for approval of the plan to the Policy and Procedures Section of this Department at least thirty (30) days prior to the implementation of such plan, plant closure, or mass layoff;

(b) The request must be accompanied by a copy of the agreement between the company and its workers;

(c) Payments under the proposed supplemental unemployment benefit plan must be specifically designated as such, and must be intended solely as a supplement to unemployment insurance benefits;

(d) The payments of the proposed plan must be guaranteed to all employees, and set aside by the employer in a designated trust fund; and

(e) Payments made in accordance with the plan must be issued in weekly increments, and be conditional based on eligibility for unemployment insurance benefits.

Authority O.C.G.A. Secs. 34-8-51(b)(2), 34-8-70, 34-8-170, 34-8-190.

300-2-4-.06 Issuance of Replacement Checks. Amended.

(1) A replacement for any check that has not been received by the claimant nor cleared the account of the department shall not be processed until thirty (30) days after the original check date and, only upon proper completion of Form Claims Memorandum DOL-157.3, or other documentation that the Commissioner determines to be acceptable, certifying that neither the claimant nor any person authorized by or acting on behalf of the claimant received the check or any portion of its proceeds.

(2) A replacement check may be issued when an identifiable part of the original unpaid check is returned to the department in a torn or mutilated condition.

(3) A replacement check may be issued for a check with forged or erroneous endorsement upon completion of the following actions:

(a) Claimant reviews and denies validity of signature;

(b) Claimant completes "Affidavit of Forged Endorsement and Application For New Check", Form DOL-477A, certifying that neither the claimant nor any person authorized by or acting on behalf of the claimant has cashed said check or received any portion of the proceeds therefrom; and

(c) The department has had the proceeds of the original forged or erroneous check restored to the account of the department.

Authority O.C.G.A. Secs. 34-8-70, 34-8-152, 34-8-170, 34-8-190.

300-2-4-.07 Repealed.

300-2-4-.08 Waiver of Overpayments. Amended.

(1) An individual shall be required to repay an overpayment of unemployment insurance benefits unless a timely application for waiver is filed and such repayment, in the discretion of the Commissioner or the Commissioner's designee, is determined to be inequitable under this rule and fault is not found to be attributable to that individual. Such determination shall not be appealable.

(2) A waiver of an unemployment insurance overpayment may not be granted if the request for such waiver is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment. Provided, however, that such time limitation may be extended, in the discretion of the Commissioner or the Commissioner's designee, upon a showing of extenuating circumstances which prevented the filing of a timely waiver request by the claimant and such circumstances were beyond the claimant's control.

(3) A waiver of an unemployment insurance overpayment may not be granted to any individual who has been expressly determined to have 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 such information presentation was false or misleading.

(4) A waiver of an unemployment insurance overpayment may be granted to an individual only if:

(a) a timely application for waiver is filed;

(b) fault is not attributable to the individual, as outlined in paragraph (3) of this rule;

(c) the individual provides, at the time of the individual's request for a waiver, satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual; and

(d) the individual provides, at the time of the individual's request for a waiver, satisfactory evidence that he or she has no reasonable prospect of future employment nor ability to repay the overpayment in the future, due to age, disability, or other good cause.

(5) Financial hardship exists if 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.

(6) 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 granted under provision of Chapter 7 or Chapter 13 of the Bankruptcy Code, waiver will be granted.

Authority O.C.G.A. Secs. 34-8-70, 34-8-190, 34-8-254.

300-2-4-.09 Partial Unemployment.

(1) "Weekly Report of Low Earnings", Form DOL-408, shall 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 his unemployment insurance weekly amount, if known, plus \$ 50.00 or earns an amount not exceeding the maximum weekly amount provided in the Employment Security Law plus, \$ 50.00, if the individual's unemployment insurance weekly benefit is not known. Partial unemployment claims shall not be submitted or allowed for vacation days regardless of whether such vacation days were requested by the employee or established by the employer.

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

(a) The employer shall complete an affidavit in such form as approved by the Commissioner with respect to the partial unemployment for partial claims which are submitted on magnetic tape.

(b) Normally employers who have over twenty-five (25) employees affected by the partial unemployment may have such partial unemployment approved.

(c) Such unemployment must have been directly caused by lack of work and no other issues as to entitlement of unemployment benefits may be present; if other issues are involved the employee must report to the nearest field service office in order to claim unemployment benefits.

(d) Form DOL-408, the questionnaire and any other correspondence shall be signed by both

the employer and the employee and mailed or delivered to:

Georgia Department of Labor
Claims Administration
Suite 900, Sussex Place
148 International Blvd., N.E.
Atlanta, Georgia 30303-1751

(e) The employer's physical address, telephone number and DOL account number must be shown on forms. Forms with only post office mailing addresses or without telephone number and account number shall not be accepted.

(3) Six (6) consecutive weeks of total unemployment immediately following a week of full-time or part-time employment may be reported by an employer on Form DOL-408 or magnetic tape.

(4) Following those six (6) consecutive weeks of total unemployment for any worker reported on Form DOL-408, an employer who requests permission and shows justifiable cause may, upon approval of the Commissioner report four (4) additional weeks of total unemployment on Form DOL-408, provided the employer provides a firm return to work date for such employees within the four (4) week time period.

(a) If the employer can provide no firm return to work date or upon expiration of the approved time period for acceptance of partial unemployment claims, or when employer ceases to file Form DOL-408 for any totally unemployed worker, the employer shall immediately advise the employee to report in person to the nearest local field service office of the department for the purpose of registering for work and reporting on his or her claim.

(b) Employers will not be authorized to file low earnings reports for regular breaks in seasonal employment. They may be filed when unusual circumstances require a break in employment at a time of normal, non-seasonal work.

(c) Any employer found by the Commissioner to be abusing the purpose and intent of the partial claims program will be restricted from using the partial system for a period of three (3) years from time of discovery of the violation. This restriction may be appealed to the Commissioner for possible reconsideration. Such appeal shall follow standard appeal provisions specified in the Employment Security Law.

(5) Because partial unemployment claims are employer-initiated claims based upon lack of work, such employers will receive no Form DOL-1199FF (notice of initial claim). The employer will receive its quarterly notification of charges against its account as provided by OCGA Section 34-8-157(d) and OCGA Section 34-8-159(4), provided, however, such employer will be furnished notice of the approval by the department of the initial partial claims.

Authority O.C.G.A. Secs. 34-8-70, 34-8-190.

300-2-4-.10 Mass Separation.

(1) Mass separation due to lack of work or reason other than labor dispute. Whenever twenty-five (25) or more workers employed in one establishment are separated on the same day, for the same

reason, and the separation is permanent, for an indefinite period or for an expected duration of seven (7) or more days, the employer or employing unit shall, within forty-eight (48) hours following such separation, furnish the local office of the department nearest its place of business, Form DOL-402, "Mass Separation Notice (in duplicate)", and a copy of Form DOL-402A, "Mass Separation Notice (Continuation Sheet)", setting forth the information required thereon.

(2) Separation due to labor dispute.

(a) In the case of total or part-total unemployment due to a strike, lockout or other labor dispute, the employer or employing unit shall file only Form DOL-402 (in duplicate) within forty-eight (48) hours after such unemployment first occurs. The Form DOL-402 will set forth the existence of such dispute and will be mailed to:

Georgia Department of Labor
UI Legal Section
Suite 826, Sussex Place
148 International Boulevard, N.E.
Atlanta, Georgia 30303-1751

(b) Upon request of the Georgia Department of Labor, the employer or employing unit shall within four (4) business days following such request furnish the department the name and social security numbers of the workers ordinarily attached to the department or the establishment where unemployment is caused by a strike, lockout, or other labor dispute.

Authority O.C.G.A. Sec. 34-8-70.

300-2-4-.11 Extended Benefits. Amended.

(1) The purpose of this section of the rules is to identify certain provisions of federal law which establish requirements for extended benefits, as described in OCGA Section 34-8-197, and to define certain limitations under state law for payment of such extended benefits by the department on or after February 17, 2009.

(2) Extended benefits are made available to unemployment claimants through state unemployment insurance programs pursuant to requirements of the Federal-State Extended Unemployment Compensation Act of 1970, Public Law 91-373, Section 201 et seq., as amended. Said law establishes certain insured unemployment rate and total unemployment rate triggers which the states must adopt for the payment of extended benefits.

(3) Section 2005 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, hereinafter referred to as ARRA, directed the Secretary of Labor to provide instructions to states to identify new, alternate unemployment rate triggers which states could adopt on a temporary or permanent basis for payment of extended benefits to individuals who had exhausted all current eligibility to state unemployment compensation and federal extended benefits in 2009. Section 2005 of ARRA provides for full federal funding, also known as 100% federal funding, of the costs of extended benefits paid by states under the Secretary's instructions.

(4) Alternate Temporary Extended Benefit Triggers.

(a) In 2009, Georgia enacted the Georgia Works Job Creation and Protection Act of 2009, Georgia House Bill 581, Ga. L. 2009, p. 139, Section 9 of which adopted new alternate, temporary triggers permitted by Section 2005 of ARRA, thereby making extended unemployment benefits available to eligible individuals under OCGA Code Section 34-8-197. For the purposes of extended benefits authorized under amended Code Section 34-8-197 and in accordance with the intent of the legislature in adopting the permitted triggers, the legislature stated at OCGA Code Section 34-8-197(a)(3)(B)(ii):

(ii) This subparagraph shall apply through the week ending three weeks prior to the last week for which 100 percent federal funding is authorized and provided pursuant to either Section 2005(a) of Public Law 111-5 or any extension thereof that does not impose any new condition upon receipt of such federal funding.

Such language is a limitation upon the payment of extended benefits under the amended Code Section. Extended benefits are only payable under the provisions cited during such period of time as 100% federal funding, also known as full federal funding, is available to the state for reimbursement of extended benefits paid.

(b) In 2011, Georgia enacted Georgia House Bill 500, Ga. L. 2011, Act 93, Section 1 of which adopted an additional new alternate, temporary trigger with a three-year look back provision permitted by Section 2005 of ARRA, as amended, effective until December 31, 2011. Georgia 2011 House Bill 500 provides for retroactive eligibility and payment of weekly extended benefits to those individuals who establish eligibility from the effective date of prior Georgia 2009 House Bill 581 until December 31, 2011. The Commissioner, in his discretion, may direct that payments of extended benefits be made, without interruption, to all eligible claimants from the date of the last week of eligibility under OCGA Section 34-8-197(a)(3)(B)(i) until the first week of payment eligibility under OCGA Section 34-8-197(a)(3)(B)(ii), as amended, subject to the 100 percent federal funding limitation identified in subparagraph (4)(a) above.

(5) Any future payment period of extended benefits under OCGA Section 34-8-197, if not specifically authorized by Section 2005 of ARRA or an extension thereof, shall be made in accordance with the applicable federal and state legislation authorizing such payment period.

Authority O.C.G.A. Secs. 34-8-70, 34-8-197, as amended.