

Regulations of Connecticut State Agencies

TITLE 31. Labor

Agency

Department of Labor

Subject

Eligibility for Unemployment Compensation

Inclusive Sections

§§ 31-235-1—31-235-27

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Sec. 31-235-1. Definitions

For purposes of sections 31-235-1 through 31-235-26 and sections 31-236-1 to 31-236-57 inclusive of these regulations, the following definitions apply:

(a) “Administrator” means the Labor Commissioner of the State of Connecticut, whose mailing address is 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, or his designated representative.

(b) “Base period” means the first four of the five most recently completed calendar quarters prior to an individual’s benefit year, provided such quarters were not previously used to establish a prior valid benefit year, except that for any individual who is eligible to receive or is receiving or had received workers’ compensation, or who is or had been properly absent from work under the terms of his employer’s sick leave or disability leave policy, the base period shall be the first four of the five most recently worked quarters prior to such benefit year, provided, such quarters were not previously used to establish a prior valid benefit year and provided further, the last most recently worked calendar quarter is not more than twelve calendar quarters prior to the date such individual makes his initiating claim.

(c) “Benefits” means unemployment compensation payable to an individual with respect to his unemployment under Chapter 567 of the Connecticut General Statutes.

(d) “Benefit year” means the period commencing with the beginning of the week with respect to which an individual has filed a valid initiating claim and continuing through the Saturday of the fifty-first week following the week in which it commenced, provided no benefit year shall end until after the end of the third complete calendar quarter, plus the remainder of any uncompleted calendar week which began in such quarter, following the calendar quarter in which it commenced.

(e) “Full-time work” means employment for the number of hours which prevails for the industry or employment sector in which the work is performed.

(f) “Labor dispute” means any controversy concerning terms or conditions of employment, or concerning association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, or concerning employment relations, or any other controversy arising out of respective interests of employer and employee.

(g) “Major portion of the week” means three or more of those days of the week during which the work for which an individual is suited is customarily performed to a significant extent.

(h) “Prevailing wages, hours or conditions” means those wages paid, or hours or conditions which exist for the largest number of workers engaged in similar work in the area.

(i) “Public employment bureau” means the Connecticut State Job Service, or where an individual is filing for benefits on an interstate basis, the public employment bureau in the appropriate jurisdiction.

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(j) “Week” means a calendar week commencing at midnight on Sunday.

(k) “Wilful” means intentional or deliberate or with reckless indifference for the probable consequences of one’s actions.

(Effective June 24, 1986)

Sec. 31-235-2. Benefit eligibility conditions

Except as provided in section 31-235-3 of the Regulations of Connecticut State Agencies, an unemployed individual shall be eligible to receive benefits with respect to any week only if the Administrator finds that:

(1) the individual has made claim for benefits in accordance with the provisions of section 31-240 of the Connecticut General Statutes and has registered for work at the public employment bureau or other agency designated by the Administrator within such time limits, with such frequency and in such manner as prescribed by the Administrator in section 31-222-13 of the Regulations of Connecticut State Agencies, provided failure to comply with this condition may be excused by the Administrator upon a showing of good cause, as defined in section 31-222-13 of the Regulations of Connecticut State Agencies, therefor; and

(2) Notwithstanding sections 31-235-6a and 31-235-20 of the Regulations of Connecticut State Agencies, the individual is physically and mentally able to work and is available for work and has been and is making reasonable efforts to obtain work; and

(3) the individual has been paid wages by an employer who was subject to the provisions of Chapter 567 of the Connecticut General Statutes during the base period of the individual’s current benefit year in an amount at least equal to forty times the individual’s benefit rate for total unemployment.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-3. Benefit eligibility conditions—*involuntary retirees 62 years and older*

An unemployed individual who is sixty-two years of age or older and is involuntarily retired under a compulsory retirement policy or contract provision shall be eligible for benefits with respect to any week only if the Administrator finds that:

(1) the individual has made claim for benefits in accordance with the provisions of section 31-240 and has registered for work at the public employment bureau; and

(2) except as provided in section 31-235-20, the individual is physically and mentally able to work and is available for work; and

(3) the individual has been paid wages by an employer who was subject to the provisions of chapter 567 of the Connecticut General Statutes during the base period of his current benefit year in an amount at least equal to forty times his benefit rate for total unemployment; and

(4) the individual has not refused suitable work to which he has been referred by the Administrator.

(Effective June 24, 1986)

Sec. 31-235-4. Physically and mentally able to work

The Administrator shall find that an individual is physically and mentally able to work so long as the individual is capable of performing some type of remunerative work. Except as provided in sections 31-235-6a and 31-235-12 of the Regulations of Connecticut State Agencies, the Administrator shall find that an individual is able to work with respect to a given week if the individual is physically and mentally able to work during those days and hours which are lawful and customary for the individual's usual occupation or industry or other suitable work.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-5. Ability to work—pregnancy

The Administrator shall not conclude that any individual is unable to work solely because the individual is pregnant.

(Effective June 24, 1986)

Sec. 31-235-6. Availability – general

(a) Except as provided in section 31-235-6a of the Regulations of Connecticut State Agencies, in order to find an individual eligible for benefits for any week, the Administrator must find the individual available for full-time work during that week. An individual is available for work if the individual is genuinely exposed to the labor market. An individual is genuinely exposed to the labor market if such individual is willing, able and ready to accept suitable work.

(b) The Administrator shall find that a labor market exists for an individual, if within a reasonable geographical area, there are jobs for which such individual possesses skills and abilities. The fact that there are more persons in an area qualified for a certain type of job than there are job vacancies does not negate the existence of a labor market for the individual. Restrictions on the type of work an individual is willing to accept shall only render the individual unavailable for work if the Administrator finds that the restriction reduces such individual's prospects for securing employment to such an extent that the individual is no longer genuinely exposed to the labor market.

(c) The Administrator may deny benefits on the basis of restricted availability if the Administrator has first advised and given the individual the opportunity to comply with the requirements of section 31-235 of the Connecticut General Statutes, except as provided in section 31-235-6a of the Regulations of Connecticut State Agencies.

(d) The Administrator shall afford an individual a reasonable period of time within which to seek employment at such individual's highest skill and wage level. After a reasonable period of time, the Administrator may require the individual to broaden such individual's availability with respect to the type of work and wages the individual is willing to accept.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-6a. Availability—limitations based on physical or mental impairments

(a) Definitions:

For the purposes of this section, the following definitions shall apply:

(1) “Chronic” means a persistent or recurring condition that current medical science can alleviate but not cure;

(2) “Licensed physician” means a doctor of medicine or osteopathy possessing a license under Chapter 370 of the Connecticut General Statutes to practice medicine and surgery in this State;

(3) “Long-term” means a condition that has persisted or is likely to persist for at least twelve months;

(4) “Mental impairment” means a clinically recognized condition or illness that affects a person’s thought processes, judgment or emotions;

(5) “Part-time employment” means employment of less than thirty-five hours per calendar week;

(6) “Permanent” means a condition that will last during the lifetime of the individual;

(7) “Physical impairment” means a partial or total loss of bodily function, whether congenital or resulting from injury or disease, whether existing alone or in combination with another physical or mental impairment; and

(8) “Suitable work” means either work in the individual’s occupation or field or other work for which the individual is reasonably fitted, provided such work is within a reasonable distance of the individual’s residence and is consistent with any medical restrictions imposed by the individual’s licensed physician. In determining whether or not any work is suitable for an individual, the Administrator shall consider the degree of risk to the individual’s health, safety and morals, the individual’s physical and mental fitness and prior training and experience, the individual’s skills, the individual’s previous wage level and the individual’s length of unemployment.

(b) The Administrator may find an individual who limits such individual’s availability to part-time employment to be eligible for benefits only if the individual:

(1) provides documentation from a licensed physician that:

(A) the individual has a physical or mental impairment that is chronic or is expected to be long-term or permanent in nature, and

(B) the individual is unable to work full-time because of such impairment; and

(2) establishes, to the satisfaction of the Administrator, that such limitation does not effectively remove such individual from the labor force.

(c) (1) In determining eligibility pursuant to subsection (b) of this section, the Administrator shall require the individual applying for benefits to secure documentation from a licensed physician, on a form prescribed by the Administrator, which provides the following information:

(A) whether the individual has a physical or mental impairment;

(B) whether such impairment is:

(i) chronic,

- (ii) expected to be long-term, or
 - (iii) permanent in nature;
 - (C) whether, in the physician's professional opinion, such impairment will render the individual unable to work full-time hours on a continuing or long-term basis; and
 - (D) a description of such impairment.
- (2) In addition, the Administrator may request that the licensed physician provide the following information:
- (A) a description of any restrictions on the type of work the individual is able to perform;
 - (B) any restrictions on the number of hours per day the individual is able to work; and
 - (C) any restrictions on the number of hours per week the individual is able to work.
- (3) In the absence of the information referenced in subsection (c)(2) of this section, the Administrator may consider any reliable evidence regarding any such restrictions.

(d) **Labor force attachment.**

In determining whether an individual has established that limiting such individual's availability to part-time employment has not effectively removed the individual from the labor force pursuant to subsection (b)(2) of this section, the Administrator shall consider the following:

(1) The individual's availability for suitable work

(A) The Administrator may find that an individual's limitation on availability to part-time employment does not effectively remove the individual from the labor force, provided the individual:

- (i) is available for suitable work, as defined in subsection (a)(8) of this section, during the hours that the individual is medically permitted to work; and
- (ii) satisfies the applicable requirements of sections 31-235-6 through 31-235-21, inclusive, of the Regulations of Connecticut State Agencies.

(B) In determining an individual's availability for suitable work in accordance with this subdivision, the Administrator shall consider the individual's history of working part-time.

(2) The individual's efforts to find work

The Administrator may find that an individual whose availability is limited to part-time employment is making reasonable efforts to find work if the individual:

- (A) directs the individual's work search toward suitable work, as defined in subsection (a)(8) of this section; and
- (B) satisfies the requirements of sections 31-235-22 through 31-235-26, inclusive, of the Regulations of Connecticut State Agencies; or
- (C) is a registered client of an organization that provides services to individuals in need of supported employment.

(Adopted effective December 7, 2007)

Sec. 31-235-7. Availability – short-term labor market exposure

Where an individual has established that such individual is genuinely exposed to the labor market for a short duration, either because the individual has a reasonably certain date of

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recall by the individual's former employer or because the individual has secured new employment to commence in the near future, the individual must be available for temporary full-time employment, or temporary part-time employment, provided the individual has satisfied the requirements of section 31-235-6a of the Regulations of Connecticut State Agencies, in order to be eligible for benefits.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-8. Distance to work transportation

An individual must be available for work within a reasonable distance of his residence. In determining whether an individual is available for work within a reasonable distance, the Administrator shall consider:

- (1) availability of public transportation;
- (2) personal means of transportation available to the individual;
- (3) common commuting patterns for individuals similarly situated;
- (4) the individual's physical condition;
- (5) the location of job opportunities.

(Effective June 24, 1986)

Sec. 31-235-9. Availability – days

(a) Except as provided in sections 31-235-6a and 31-235-12 of the Regulations of Connecticut State Agencies, an individual must be available for work for those days of the week during which the work for which the individual is suited is customarily performed.

(b) An individual may exclude from the individual's days of availability those days in which such individual's customary occupation or other suitable work is performed only to a minimal extent.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-10. Availability – hours

(a) Except as provided in sections 31-235-6a and 31-235-12 of the Regulations of Connecticut State Agencies, an individual must be available for work during such hours as are lawful and customary for the individual's usual occupation or industry or for other suitable work.

(b) An individual may exclude from such individual's hours of availability those hours in which the individual's customary occupation or other suitable work is performed only to a minimal extent.

(c) An individual may exclude from the individual's hours of availability those hours which such individual can demonstrate pose a health risk, provided that exclusion of such hours does not severely restrict the individual's exposure to the labor market.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-11. Availability during a labor dispute

Where an individual has become unemployed as the result of a labor dispute, the individual must comply with the provisions of sections 31-235-1 to 31-235-26 inclusive.

(Effective June 24, 1986)

Sec. 31-235-12. Availability – major portion of a benefit week

Notwithstanding the provisions of section 31-235-4, section 31-235-9 and section 31-235-10 of the Regulations of Connecticut State Agencies, and except for the provisions of section 31-235-6a of the Regulations of Connecticut State Agencies, the Administrator shall consider an individual to be available for work with respect to a given week if the individual is available for work during the major portion of the week, so long as the individual's restriction on days of availability is not continuing in nature.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-13. Leave of absence

(a) Where an individual has become unemployed as the result of a leave of absence granted by the individual's employer, the individual must comply with the provisions of sections 31-235-1 to 31-235-26 inclusive to be eligible for benefits.

(b) When necessary, the Administrator shall request from the individual's employer any information he needs concerning the leave of absence.

(Effective June 24, 1986)

Sec. 31-235-14. Availability—conscientious objection

An individual's religious or moral objection to a particular type of work shall not render the individual unavailable for work, provided such objection does not severely restrict his exposure to the labor market.

(Effective June 24, 1986)

Sec. 31-235-15. Availability—jury duty

When an unemployed individual is summoned to jury duty, the Administrator shall consider the individual to be available for work during the performance of such duty.

(Effective June 24, 1986)

Sec. 31-235-16. Availability—legislator

No member of the Connecticut General Assembly shall, during the regular session of the General Assembly, be deemed available for work.

(Effective June 24, 1986)

Sec. 31-235-17. Availability status of individuals not legally authorized to work in the United States

The Administrator shall not find any individual, who is not authorized under federal law

to work in the United States, to be available for work.

(Effective June 24, 1986)

Sec. 31-235-18. Availability—workfare

An individual's participation in a state or municipal workfare program shall not, in and of itself, render the individual unavailable for work.

(Effective June 24, 1986)

Sec. 31-235-19. Availability—patterns of unemployment

The Administrator shall not consider an individual's prior patterns of unemployment in determining whether he is available for work. For the purposes of this section, "pattern of unemployment" means regularly recurring periods of unemployment of the claimant in the years prior to his filing the claim in question.

(Effective June 24, 1986)

Sec. 31-235-20. Availability – Student availability

(a) The Administrator shall not consider an individual to be unavailable for work solely because such individual is attending a school, college or university as a regularly enrolled student, provided the individual has not been found ineligible under the provisions of section 31-236(a)(6) of the Connecticut General Statutes. The Administrator shall not consider an individual's efforts to obtain work to be lacking if, as a student, the individual restricts such efforts to full-time employment, or part-time employment provided the individual has satisfied the requirements of section 31-235-6a of the Regulations of Connecticut State Agencies, which does not conflict with the individual's regular class hours as a student.

(b) Notwithstanding the provisions of subsection (a), any individual who is attending a school, college or university as a regularly enrolled full-time student and who has attended a school, college or university as a regularly enrolled full-time student at any time during the two years prior to the individual's date of separation from employment shall be considered by the Administrator to be unavailable for work unless the individual has been employed on a full-time basis for the same two-year period.

(c) For purposes of this section, "school" means an established institution of vocational, academic or technical instruction or education, other than a college or university.

(d) For purposes of this section, "regularly enrolled student" means an individual who has completed all forms and processes required to attend a school, college or university and who will attend prescribed classes at the times they are offered.

(e) For purposes of this section, "regularly enrolled full-time student" means an individual who has registered for sufficient credits to constitute full-time status, as determined by the school, college or university.

(Effective June 24, 1986; Amended December 7, 2007)

Sec. 31-235-21. Availability—union/non-union

To be available for work, an individual must be willing, able and ready to accept suitable work, irrespective of its union or non-union character.

(Effective June 24, 1986)

Sec. 31-235-22. Efforts—general

(a) The Administrator shall require that for each week for which a claim for benefits is made, an individual must make reasonable efforts to obtain work.

(b) The Administrator shall deny benefits to an individual on the basis of the individual's failure to make reasonable efforts to obtain work only if the Administrator has determined the individual to be available for suitable work and the individual's efforts to obtain work in a given week were inadequate in terms of quantity, type of work sought or method of work search utilized.

(c) The Administrator shall not require any individual who is sixty-two years of age or older and who is involuntarily retired under a compulsory retirement policy or contract provision to make reasonable efforts to obtain work.

(d) The Administrator shall not deny benefits on the basis of a failure to make reasonable efforts, unless the Administrator has first advised the individual of the requirements of section 31-235 of the Connecticut General Statutes and given the individual an opportunity to comply.

(Effective June 24, 1986)

Sec. 31-235-23. Efforts—quantity

The Administrator shall find that an individual's efforts to obtain work are inadequate in any week if the individual has not brought his skills and aptitudes to the attention of a sufficient number of employers to effectively enhance his prospects for securing suitable work at the earliest possible date.

(Effective June 24, 1986)

Sec. 31-235-24. Efforts—type of work

The Administrator shall find inadequate an individual's efforts to obtain work for which he is not reasonably suited, given his prior work experience and training.

(Effective June 24, 1986)

Sec. 31-235-25. Efforts—method of work search

The Administrator shall find that an individual's efforts to obtain work in any week are inadequate if the individual's work search method is not likely to bring the availability of his skills and aptitudes to the attention of employers.

(Effective June 24, 1986)

Sec. 31-235-26. Efforts—individuals scheduled to commence or return to work

The Administrator shall not deny benefits on the basis of an individual's failure to make reasonable efforts to obtain work in a given week if the individual is scheduled to commence or return to work on a definite date in the immediate future.

(Effective June 24, 1986)

Sec. 31-235-27. Participation in profiling

(a) For purposes of this section, the following definitions apply:

(1) "Administrator" means the Labor Commissioner of the State of Connecticut, whose mailing address is 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, or his designated representative.

(2) "Due diligence" means the actions a reasonable and prudent person would take under similar circumstances.

(3) "Good faith error" means a reason given by an individual identified through the profiling system for failure to participate in a reemployment service, which reason is attributable to an honest mistake that does not rise to the level of gross negligence.

(4) "Participation in a Reemployment Service" means attendance and a good faith effort to participate in and complete a reemployment service.

(5) "Profiling System" means a system designed by the Administrator to identify unemployment compensation benefit recipients who are likely to exhaust regular benefits and need reemployment services to make a successful transition to new employment.

(6) "Reemployment Service" means a service to which an individual identified through the profiling system has been referred, which is designed to: (a) orientate an individual to the profiling system and assess his need for subsequent services; and/or (b) provide the individual with skills or information to assist him to return to suitable employment.

(b) The Administrator's responsibilities in the operation of a profiling system shall include, but not be limited to, the following:

(1) Identification of individuals through the profiling system who are likely to exhaust unemployment benefits;

(2) Orientation of individuals regarding available profiling system reemployment services and assessment of the need for such services;

(3) Determination of what, if any, profiling system reemployment services are needed to assist the individual to make a successful transition to new employment;

(4) Referral of individuals, when appropriate, to profiling system reemployment services deemed necessary by the Administrator;

(5) Monitoring of an individual's participation in referred reemployment services, where necessary;

(6) Scheduling and conducting a hearing to adjudicate eligibility for unemployment benefits pursuant to Section 31-241 of the General Statutes, whenever the Administrator identifies an issue of compliance with respect to an individual's participation in a reemployment service which requires adjudication; and

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(7) Making a determination of eligibility with respect to any issue adjudicated pursuant to subdivision (6) of this subsection.

(c) As a condition of eligibility for unemployment benefits, an individual shall participate in any appropriate, profiling system reemployment service to which he has been referred unless he has completed similar services or he can demonstrate that justifiable cause existed for his nonparticipation.

(d) In considering whether justifiable cause has been shown for the nonparticipation in a profiling system reemployment service, the Administrator shall compare the individual's actions with the standard of what a prudent and reasonable person would do under similar circumstances and consider all relevant factors, including but not limited to:

(1) "Good faith error" by the individual provided there is no prior history of nonparticipation due to such error. In determining whether good faith error existed, the Administrator shall consider an individual's level of familiarity with profiling system procedures and requirements and whether the individual's actions otherwise demonstrate an intent to comply with such procedures and requirements;

(2) Any physical or mental impairment of the individual which may have prevented participation;

(3) Administrative error by the Employment Security Division or the failure of the Division to discharge its responsibilities;

(4) Factors outside the control of the individual which prevented participation;

(5) Participation in a training program approved by the Administrator pursuant to Section 31-236b of the general statutes;

(6) A scheduled interview or appointment with an employer relating to the individual's efforts to obtain suitable employment;

(7) Employment, the hours of which conflict with participation;

(8) Whether the individual acted with due diligence after the reason for nonparticipation no longer existed;

(9) Whether the individual is currently participating in, or will in the immediate future, participate in similar services.

(e) Any profiling system reemployment service which requires attendance for two days or less in any given week shall not be considered training with approval of the Administrator pursuant to Section 31-236b of the General Statutes.

(Adopted effective May 31, 1996)