

§ 96-14.9. Weekly certification.

(a) Requirements. – An individual's eligibility for a weekly benefit amount is determined on a week-to-week basis. An individual must meet all of the requirements of this section for each weekly benefit period. An individual who fails to meet one or more of the requirements is ineligible to receive benefits until the condition causing the ineligibility ceases to exist:

- (1) File a claim for benefits.
- (2) Report as requested by the Division and present valid photo identification meeting the requirements of subsection (k) of this section.
- (3) Meet the work search requirements of subsection (b) of this section.

(b) Work Search Requirements. – The Division must find that the individual meets all of the following work search requirements:

- (1) The individual is able to work.
- (2) The individual is available to work.
- (3) The individual is actively seeking work.
- (4) The individual accepts suitable work when offered.

(c) Able to Work. – An individual is not able to work during any week that the individual is receiving or is applying for benefits under any other state or federal law based on the individual's temporary total or permanent total disability.

(d) Available to Work. – An individual is not available to work during any week that one or more of the following applies:

- (1) The individual tests positive for a controlled substance. An individual tests positive for a controlled substance if all of the conditions of this subdivision apply. An employer must report an individual's positive test for a controlled substance to the Division:
 - a. The test is a controlled substance examination administered under Article 20 of Chapter 95 of the General Statutes.
 - b. The test is required as a condition of hire for a job.
 - c. The job would be suitable work for the individual.
- (2) The individual is incarcerated or has received notice to report to or is otherwise detained in a state or federal jail or penal institution. This subdivision does not apply to an individual who is incarcerated solely on a weekend in a county jail and who is otherwise available for work.
- (3) The individual is an alien and is not in satisfactory immigration status under the laws administered by the United States Department of Justice, Immigration and Naturalization Service.
- (4) The individual is on disciplinary suspension for 30 or fewer days based on acts or omissions that constitute fault on the part of the employee and are connected with the work.

(e) Actively Seeking Work. – The Division's determination of whether an individual is actively seeking work is based upon the following:

- (1) The individual is registered for employment services, as required by the Division.
- (2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.
- (3) The individual has made at least three job contacts with potential employers during the week.
- (4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of

contact, and the date contacted. The individual must provide the record to the Division upon request.

(f) **Suitable Work.** – The Division's determination of whether an employment offer is suitable must vary based upon the individual's length of unemployment as follows:

- (1) During the first 10 weeks of a benefit period, the Division may consider all of the following:
 - a. The degree of risk involved to the individual's health, safety, and morals.
 - b. The individual's physical fitness and prior training and experience.
 - c. The individual's prospects for securing local work in the individual's customary occupation.
 - d. The distance of the available work from the individual's residence.
 - e. The individual's prior earnings.
- (2) During the remaining weeks of a benefit period, the Division must consider any employment offer paying one hundred twenty percent (120%) of the individual's weekly benefit amount to be suitable work.

(g) **Job Attachment.** – An individual who is partially unemployed and for whom the employer has filed an attached claim for benefits has satisfied the work search requirements for any given week in the benefit period associated with the attached claim if the Division determines the individual is available for work with the employer that filed the attached claim.

(h) **Job Training.** – An individual who is otherwise eligible may not be denied benefits for any week because of the application to any such week of requirements relating to availability for work, active search for work, or refusal to accept work if the individual is attending a training program approved by the Division.

(i) **Federal Labor Standards.** – An otherwise eligible individual may not be denied benefits for a given week if the Division determines the individual refused to accept new work for one or more of the following reasons:

- (1) The position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) The individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization as a condition of employment.

(j) **Trade Act of 1974.** – An otherwise eligible individual may not be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law or of any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974, and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(k) **Photo Identification.** – The individual must present the Division one of the following documents bearing the individual's photograph:

- (1) A drivers license, learner's permit, provisional license, or nonoperator's identification card issued by North Carolina, another state, the District of Columbia, United States territory, or United States commonwealth.
- (2) A United States passport.
- (3) A United States military identification card.
- (4) A Veterans Identification Card issued by the United States Department of Veterans Affairs.
- (5) A tribal enrollment card issued by a federally recognized tribe.
- (6) Any other document that the Division determines adequately identifies the individual and that is issued by the United States, any state, the District of Columbia, United States territory, or United States commonwealth.
- (7) A traveler card issued by the U.S. Department of Homeland Security, such as the NEXUS SENTRI and FAST CARDS.

(l) Federal Disaster Declaration. – An individual who is unemployed due directly to a disaster covered by a federal disaster declaration has satisfied the work search requirements for any given week in the benefit period unless the Division requires the individual to conduct a work search. (2013-2, s. 5; 2013-224, ss. 14, 19; 2013-391, s. 5; 2015-238, ss. 2.2(a), 2.6; 2017-8, s. 1(d); 2018-94, s. 3(a).)