

35A-4-402. Extended benefits.

(1) Except when the result would be inconsistent with the other provisions of this section or the rules of the department, the provisions of this chapter that apply to claims for or payments of regular benefits apply to claims for and payments of extended benefits.

(a) To the extent that the provisions and definitions of terms in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), are in conflict with, or supplement the provisions and definitions applicable pursuant to this section, the provisions and definitions of the American Recovery and Reinvestment Act of 2009 shall apply to this section.

(2) An individual is eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the division finds that with respect to that week the individual:

(a) is an "exhaustee" as defined in this section;

(b) has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) has satisfied the federal requirements as adopted by state rule for the receipt of extended benefits.

(3) The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period is an amount equal to the weekly benefit amount payable to him during his applicable benefit year.

(4) The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year is the lesser of the following amounts:

(a) fifty percent of the total amount of regular benefits which were payable to him under this chapter in his applicable benefit year;

(b) thirteen times his weekly benefit amount which was payable to him under this chapter for a week of total unemployment in the applicable benefit year; or

(c)(i) Effective with respect to weeks beginning in a high unemployment period, paragraph (4) shall be applied by substituting:

(A) "eighty percent" for "fifty percent" in subparagraph (a)

(B) "twenty" for "thirteen" in subparagraph (b) (ii) For purposes of subparagraph (c)(i), the term "high unemployment period" means any period during which an extended benefit period would be in effect if subsection (7)(b)(ii)(A) were applied by substituting "8 percent" for "6.5 percent".

(5) Notwithstanding any other provision of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade adjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(6) (a) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the division shall make an appropriate public announcement.

(b) Computations required by Subsection (7)(f) shall be made by the division, in accordance with regulations prescribed by the United States Secretary of Labor.

(7) As used in this section:

(a) "Extended benefit period" means a period that:

(i) begins with the third week after a week for which there is a state "on" indicator; and

(ii) ends with either:

(A) the third week after the first week for which there is a state "off" indicator; or

(B) after the 13th consecutive week of duration of that period, whichever occurs later;

however, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(b) There is a "state 'on' indicator" for this state for a week if the division determines, in accordance with the regulations of the Secretary of Labor, that:

(i) for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter equaled or exceeded 120% of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years and that the rate equaled or exceeded 5%; or

(ii) with respect to weeks of unemployment beginning on or after February 1, 2009, and in effect until the week ending four weeks prior to the last week of unemployment for which 100 percent federal sharing is available under Section 2005(a) of Public Law No. 111-5, without regard to the extension of Federal sharing for certain claims as provided under Section 2005(c) of such law;

(A) for the period consisting of the most recent 3 months for which data for all states are published before the close of such week equals or exceeds 6.5 percent the average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, and equals or exceeds 110 percent of the average of the rates for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years.

(c) There is a "state 'off' indicator" for this state for a week if the division determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, none of the options specified in paragraph (7)(b) result in an "on" indicator.

(d) "Rate of insured unemployment," for purposes of Subsections (7)(b) and (7)(c), means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the Secretary of Labor, by the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

(e) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. Chapter 85, other than extended benefits.

(f) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. Chapter 85, payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.

(g) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.

(h) "Exhaustee" means an individual who, with respect to any week of unemployment in

his eligibility period:

(i) has received, prior to that week, all of the regular benefits that were available to him under this chapter or any other state law, including dependent's allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85, in his current benefit year that includes such week. An individual, for the purposes of this subsection, shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(ii) has no, or insufficient, wages or employment or both on the basis of which he could establish a new benefit year that would include that week, his benefit year having expired prior to that week; and

(iii) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, or any other federal laws as are specified in regulations issued by the Secretary of Labor and has not received, and is not seeking, unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada. However, if that person is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under that law he is considered an "exhaustee," provided that the reference in this subsection to the Virgin Islands shall be inapplicable effective on the day on which the U. S. Secretary of Labor approves under Section 3304 (a) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

(i) "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a).

(8) Notwithstanding any other provision of this section, the Governor or designee may, if permitted by federal law, suspend the payment of extended benefits under this section, to the extent necessary to ensure that otherwise eligible individuals are not denied, in whole or in part, the receipt of emergency unemployment compensation benefits authorized by the federal Supplemental Appropriations Act of 2008 (public Law 110-252), the Unemployment Compensation Act of 2008 (Public Law 110-449), and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and that the state receives maximum reimbursement from the federal government for the payment of those emergency benefits.