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Document No. 4169

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

CHAPTER 47

Statutory Authority: 1976 Code Section 41-29-130

47-1. Cash Value of Certain Remunerations

47-3. Definitions

**Synopsis:**

The Department of Employment and Workforce of South Carolina (Department) proposes to amend existing regulations revising and expanding the definition of certain non-cash remunerations as well as adding regulations defining terms associated with “compelling family circumstances” in regards to eligibility for unemployment benefits. The proposed regulations were previously published in the *State Register* on December 24, 2010, and the Department held a public hearing regarding the proposed regulations on Friday, January 28, 2011. The Notice of Drafting was published in the *State Register* on November 26, 2010.

**Instructions:**

The regulations are modified as provided below. All other items and sections remain unchanged.

**Text:**

47-1. Cash value of Certain Remunerations.

 A. The South Carolina unemployment Law, provides in Section 41-27-380, that "Wages means all remuneration paid for personal services, including commissions and bonuses and the cash value of all the remuneration paid in any medium other than cash ... The reasonable cash value of remuneration paid in any medium other than cash ... shall be estimated and determined in accordance with rules prescribed by the Department."

 B. The Department accordingly prescribes that:

 1. If board, lodging, bartered services, or any other payment in kind considered as payment for services performed by a worker, is in addition to or in lieu of (rather than a deduction from) money or wages, the Department shall determine or approve the cash value of such payment in kind, and the employer shall use these cash values in computing contributions due under the law.

 2. Where cash value of board and lodging furnished a worker is agreed upon in the contract of hire the amount so agreed upon shall, if more than the rate prescribed herein, be deemed to be the value of such board and lodging, subject to review by the Department. Until and unless in a given case the rate for board and lodging is determined by the Department, board and lodging furnished in addition to and in lieu of money wages shall be deemed as follows:

 a. Meal rates as established by the Budget and Control Board.

 b. Lodging rates as determined reasonable by the Department.

 3. The cash value of bartered services shall be determined by the applicable prevailing wage published by the United States Department of Labor, state government entities, employment and trade publications, as deemed appropriate by the Department.

 4. In the absence of employer records the Department may use prevailing wage information published by the United States Department of Labor, state government entities, employment and trade publications, and similar sources to determine the monetary value of services performed by a worker.

47-3. Definitions.

 A. Spouse is defined as a legally married husband or wife.

 B. Parent is defined as a father or mother to include a step parent or legal guardian.

 C. Child is defined to include any individual for whom the claimant is a legal guardian.

 D. Reasonable commuting distance is defined as fifty (50) miles or less from the claimant’s new residence address to the claimant’s old employment address.

 E. Part-time is defined as twenty-nine (29) hours or less of work per week.

 F. If the majority of the weeks of work in an individual’s base period includes part-time work, the individual shall not be denied unemployment benefits under any provisions of this act relating to availability for work, active search for work, or failure to accept work, solely because the individual is seeking only part-time work. For the purposes of this section, majority is defined as fifty-one percent (51%) or more of the weeks of work during the individual’s base period. When seeking part-time work, the individual claiming unemployment benefits must be available for a number of hours per week that are comparable to the individual’s part-time work experience from his/her most recent part-time employment.

**Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

**Statement of Rationale:**

The purpose of amending and proposing Regulations 47-1 and 47-3 is to create uniformity and delete ambiguity in the Department’s regulations. The proposed regulations bring the Department’s regulations into conformity with legislative changes passed in the 2010 session. There was no scientific or technical basis relied upon in the development of this regulation.