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Document No. 5162

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

CHAPTER 47

Statutory Authority: 1976 Code Sections 41‑29‑110 and 41‑29‑230

47‑21. Filing Claims for Benefits and Registration for Work.

**Synopsis:**

R.47‑21 provides information and instructions on filing an initial claim for benefits and continuous claims. The Department proposes updating this regulation to be consistent with current practices and procedures and with upgrades in the Department’s technology. The proposed amendments remove references to local, physical offices and incorporate modern usage of the Department’s online benefits system and the SC Works Online Services (SCWOS) system. The amendment also clarifies the procedural differences and claimant obligations when a job attached claim is filed by an employer compared to an individual claimant. Finally, the amendment seeks to resolve questions about a claim’s effective date when it is filed on a Sunday. The Notice of Drafting was published in the *State Register* on August 26, 2022.

Section‑by‑Section Discussion:

47‑21. Filing Claims for Benefits and Registration for Work.

A.1. Revision: Revises for clearer terminology related to filing a claim for benefits, to reflect modern practice by replacing references to local offices with online systems, and to clarify “services”.

A.2. Revision: Removes references to local offices.

B.1. Addition: Clarifies the procedure and claimant obligations when a job attached claim is filed by a claimant rather than an employer.

B.2. Revision: Renumbers to reflect addition of B.1. and to specify “employer filed” initial claims.

B.3. Technical Correction: Renumbers to reflect addition of B.1.

B.4. Revision: Adds text relating to notification of ineligibility through the online benefits portal and renumbers to reflect addition of B.1.

B.5. Revision: Revises provisions related to reporting of earnings and renumbers to reflect addition of B.1.

B.6. Revision: Specifies “employer filed” claim.

C.1. Removes references to local offices and replaces with “public employment office”.

D.1. Technical Correction: Corrects a typographical error.

D.2. No change.

D.3. No change.

D.4. Technical Correction: Corrects a typographical error.

D.5. No change.

D.6. No change.

D.7. No change.

D.8. No change.

D.9. No change.

E.1. Revision: Clarifies effective date for a claim filed on a Sunday.

E.2. No change.

F.1. Deletion/Revision: Deletes provision related to local offices, renumbers to reflect that deletion, revises language related to notification of change of address to remove references to local offices and replace with

the online benefits system.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

47‑21. Filing Claims for Benefits and Registration for Work.

A. Non‑Job‑Attached Unemployment Claim:

1. Individual Claims:

a. Initial Claims: Any individual may file an initial claim for benefits to establish a benefit year for the purpose of claiming benefits or waiting week credit for non‑job‑attached unemployment. The initial claim shall be filed using the Department’s online benefits system or in any other manner approved by the Department and shall set forth that (1) he is unemployed and (2) he is available for work. Further, the claimant will be required to register for work through the South Carolina Works Online Services (SCWOS) system or in any other manner approved by the Department and be available for employment services.

b. Continued Claims: In order to establish eligibility for benefits or waiting period credit for succeeding weeks of non‑job‑attached unemployment during any continuous period of non‑job‑attached unemployment, the claimant shall continue to file as prescribed by the Department. When so directed, claimants will be required to report to appointments scheduled by the Department. The claimant will set forth:

i. That he has not worked or earned wages except as reported,

ii. That he has not refused any work offered to him, and

iii. That he is able and available to accept work and is looking for full‑time employment.

2. Mass Claims:

a. Initial Claims: The filing by an employer in accordance with 47‑19.B.1, initiates the request for the determination of status as an insured worker for each individual for whom such a form is submitted.

b. Continued Claims: In order to establish eligibility for benefits or waiting period credit for succeeding weeks of non‑job‑attached unemployment during any continuous period of non‑job‑attached unemployment, the claimant shall continue to file as prescribed by the Department. When so directed, claimants will be required to report to appointments scheduled by the Department. The claimant will set forth:

i. That he has not worked or earned wages except as reported.

ii. That he has not refused any work offered to him, and

iii. That he is able and available to accept work and is looking for full‑time employment.

B. Job‑Attached Unemployment Claim:

1. Worker Filed Initial Claims: Any individual may file an initial claim for benefits to establish a benefit year for the purpose of claiming benefits or waiting week credit for job‑attached unemployment. Such request shall be filed using the Department’s online benefits system or in any other manner approved by the Department, and shall set forth that (1) he is working less than full‑time hours, (2) the amount he is earning weekly and (3) he is available and seeking full‑time work other than his current employment. Further, the claimant will be required to register for work through the South Carolina Works Online Services (SCWOS) system or in any other manner approved by the Department and be available for employment services.

2. Employer Filed Initial Claims: For each job‑attached worker for whom a current benefit year has not been previously established and who has one payroll week furnished by his employer with work that constitutes less than the maximum weekly benefit amount during such week, the employer shall promptly prepare Form UCB‑114, Low Earnings Report and Claim‑Partial Unemployment. The employer may submit this report in a paper format or by any other computer or electronic means the Department may offer. All information requested on the form or filing medium must be supplied. The employer shall obtain the signature and address of the workers and forward report to the nearest local Department office, if the paper form is used. Computer or electronic methods of filing should be sent to the Benefits Department at the Central Office in Columbia. The completed, signed Form UCB‑114 (or electronic equivalent) shall be credited as a waiting week, if the claimant earned less than such weekly benefit amount during the week covered by the low earnings report.

3. Notification of Eligibility: When a worker is found to be eligible for benefits under a claim filed therefore, the Department shall notify the employer and the claimant of the weekly benefit amount the claimant will receive if unemployed and otherwise eligible for benefits. Such notice shall state the date on which the benefit year of the claimant will end. The attention of the employer shall be called to the fact that the amount shown is applicable only to claims for any week within the benefit year shown and that the employer is required by regulations to continue to file weekly with the Department a low earnings report (Form UCB‑114 or electronic equivalent) after obtaining the signature of the worker until the unemployment of the claimant ceases or until otherwise notified by the Department.

4. Notification of Ineligibility: When a worker is found to be ineligible because of insufficient base period wages for benefits under a claim filed therefore, the Department will notify the claimant by so noting on the copy of the determination, which shall be mailed to him or, if the claimant has established an account in the Department’s online benefits system, shall be made available electronically.

5. Continued claims: For any worker for whom a current benefit year has been established and of whose weekly benefit amount the employer has been advised, the employer shall file a low earnings report (or electronic equivalent) for any week during which the worker earns wages but because of lack of full‑time work is working less than his normal or customary full‑time hours and is earning less than his weekly benefit amount. Prior to filing the report, the employer shall request the worker disclose all earnings with all other employers or employing units which shall then be submitted on the report. The claimant shall receive notification of the employer filed weekly certification either by mail or through the online benefits system. That notification will direct the claimant to establish an account in the Department’s online benefits system and to confirm all earned wages from all employers or employing units have been correctly reported.

6. For any worker for whom an employer filed job‑attached (form UCB‑114 or electronic equivalent) claim is filed by an employer with the reason to maintain the employer‑employee relationship, the filing employer shall be considered the bona fide and liable employer for charges resulting from such claim.

C. Reporting As Instructed:

1. When so directed by a representative of the Department, the claimant must report in person to a public employment office.

D. Labor Disputes:

1. In cases of unemployment due to a labor dispute, the employer shall file with the Department office nearest the workers’ place of employment a notice setting forth the existence of such dispute and the approximate number of workers affected. Such notice shall be filed within two (2) calendar days after the commencement and at the end of the dispute a notice shall be filed within two (2) calendar days setting forth the end of such dispute.

2. Immediately upon notice by the employer, or upon information received from any other source that unemployment exists because of a labor dispute at any plant or establishment within the area served by it, the local Department office shall notify the special examiner designated by the Department in accord with Section 41‑35‑630.

3. Upon receipt of notice or information that unemployment exists because of a dispute at any plant or establishment within the area served by it, the local Department office shall obtain brief statements from the employer concerned and from the union, labor organization, or other representative recognized as representing the workers involved. These statements shall include a summary of the facts, a synopsis of the issues involved between the employer and the workers, a listing of the classes, groups, types of workers involved, names of the workers ordinarily attached to the department or establishment where such unemployment exists, together with their addresses and social security numbers, and report the date on which the dispute commenced and the date it concluded if already terminated. The local Department office shall specifically ask any union, labor organization or other representative recognized as representing the union involved to confirm or to deny the existence of a labor dispute. If there is no recognized representative of the workers, the local Department office shall so notify the special examiner.

4. The list of names as set forth above shall constitute a request for determination of status as an insured worker for each individual affected thereby. A special examiner designated by the Department, according to Section 41‑35‑630, shall make a determination as to whether or not such unemployment exists because of a labor dispute, and for seven (7) calendar days thereafter from the first day of unemployment.

5. The filing of the list of names provided for in Sub‑Items 3 and 4 of this regulation shall not deny any worker the right to file his claim for benefits in the usual manner and to have the same passed upon as otherwise provided by law.

6. In order to establish waiting week credit or continued eligibility for benefits for succeeding weeks of unemployment during any period of unemployment, an affected individual shall report when so directed by a representative of the Commission and file a continued claim for benefits as prescribed.

7. In case an apparent difference develops as to the facts in the case, the special examiner shall set a hearing, after giving due notice thereof, to determine the facts.

a. In case there is no recognized representation of the workers, or if a recognized representative does not act, the special examiner shall give notice that information has been received indicating that the unemployment existing at such establishment is due to a labor dispute which disqualified otherwise eligible workers for benefits. Any information to the contrary should be presented to the special examiner within five (5) calendar days, or in the absence of any such information, the special examiner shall make a formal determination to this effect.

8. In giving either of the notices required in the preceding paragraph, the special examiner shall advise the local Commission office, the employer concerned, and the representative of the workers involved of the time and place of hearing. If there is no recognized representative of the workers or if the organized representative will not act, the special examiner shall notify the local Department office and the employer of the time and place of hearing. Similar notices shall be prepared and posted by the local Department office in conspicuous places that are accessible to the workers involved. If the special examiner shall determine the same to be necessary he shall advertise the notice in a newspaper generally circulated in the community where such labor dispute is in progress. The notice shall also be furnished directly to the claimants in those cases where individual claims are filed.

9. After a hearing or without a hearing if none is required by this regulation, the special examiner shall issue an initial determination as to whether or not unemployment exists or existed because of a labor dispute. In the event the ruling is that unemployment is due to a labor dispute the special examiner shall determine the duration thereof and shall specify the application of the disqualification provision of Section 41‑35‑120(d) with respect to the claims of individuals affected by Sub‑Items 3, 4 and 5 of this regulation.

a. Should the special examiner determine that unemployment does exist because of a labor dispute still in progress, supplementary determinations shall be issued as may be required by any material change in the facts or a cessation of the dispute. Sub‑Items 3, 8 and 9 of this regulation shall also be applicable to such supplemental determination.

E. Effective Dates of Claims:

1. Every new claim, additional claim, or reinstatement filed to establish or reestablish a claim for unemployment compensation must have an effective date. This will be the date from which benefits may be claimed. The effective date of claims shall be the Sunday prior to the date the claim was filed, except that if a claim is filed on a Sunday, the effective date shall be the same date the claim was filed. Transitional claims will be effective the day after the prior benefit year‑ends.

2. Delay Excused for Cause: A representative of the Department, for reasons found to constitute good cause for any individual’s failure to file a claim timely, may backdate a claim to the appropriate effective date.

F. General Provisions:

1. Change of Address: Each claimant, upon changing his address, shall immediately notify the Department of such change of address using the Department’s online benefits system, giving both the old and the new addresses.

**Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

R.47‑21 provides information and instructions on filing an initial claim for benefits and continuous claims. The Department proposes updating this regulation to be consistent with current practices and procedures, such as referring to initial claims in place of requests for determination, and with upgrades in the Department’s technology. The amendment also clarifies the procedural differences and claimant obligations when a job attached claim is filed by an employer compared to an individual claimant. Finally, the amendment seeks to resolve questions about a claim’s effective date when it is filed on a Sunday.