

# DRAFT Permanent Rules changes - REGULATIONS CONCERNING EMPLOYMENT SECURITY (SOS tracking number 2021-00207)

## 2.8 ELIGIBILITY REQUIREMENTS

**2.8.4 Actively Seeking Work.** In general, a claimant shall be considered to be actively seeking work if he or she is following a course of action reasonably designed to result in prompt reemployment in suitable work. Failure to establish to the satisfaction of the Division that the work-search activities in which the claimant engages are reasonably designed to result in prompt reemployment may result in a disallowance of benefits.

**.13 UNDER CIRCUMSTANCES IN WHICH PROVISIONS HAVE BEEN MADE FOR THE PAYMENT OF BENEFITS TO INDIVIDUALS SEPARATED FROM WORK NOT CLASSIFIED AS EMPLOYMENT UNDER ARTICLE 70 OF THIS TITLE 8, AND WHEN SUCH INDIVIDUALS ARE REQUIRED TO COMPLY WITH THE REQUIREMENTS OF SECTION 8-73-107(1)(G)(I) REGARDING AN ACTIVE WORK SEARCH.**

**.1 THE FOLLOWING ACTIONS BY THE INDIVIDUAL SHALL BE CONSIDERED IN DETERMINING WHETHER THE INDIVIDUAL HAS FOLLOWED A COURSE OF ACTION DESIGNED TO RESULT IN A PROMPT RETURN TO WORK. CONSIDERATION OF THE FOLLOWING WORK-SEARCH ACTIVITIES SHALL NOT PRECLUDE THE DIVISION FROM ALSO CONSIDERING OTHER RELEVANT ACTIVITIES OR FACTORS.**

- 1. DOCUMENTED EFFORTS TO OBTAIN NEW OR ADDITIONAL CLIENTS FOR THE INDIVIDUAL'S BUSINESS;**
- 2. DOCUMENTED EFFORTS TO EXPAND THE INDIVIDUAL'S BUSINESS BEYOND THE SERVICES TYPICALLY PERFORMED;**
- 3. DOCUMENTED EFFORTS TO MARKET THE INDIVIDUAL'S BUSINESS TO NEW, REASONABLY AVAILABLE CUSTOMERS;**
- 4. IF THE INDIVIDUAL PERFORMS WORK FOR AN ONLINE PLATFORM, ESTABLISHING AN ACCOUNT WITH ANOTHER SIMILAR ONLINE PLATFORM FOR THE PURPOSE OF SEEKING WORK WITH THAT PLATFORM;**
- 5. IF THE INDIVIDUAL PERFORMS WORK FOR AN ONLINE PLATFORM, SEEKING WORK WITH ANOTHER ONLINE PLATFORM FOR WHICH THE INDIVIDUAL MAY REASONABLY BE QUALIFIED;**

6. ANY ACTIVITY WHICH DEMONSTRATES AN ACTIVE SEARCH FOR COVERED EMPLOYMENT INCLUDING, BUT NOT LIMITED TO, THE ACTIVITIES LISTED IN SECTION 2.8.4.1.

.2 A DETERMINATION UNDER THIS SECTION SHALL BE APPLICABLE ONLY TO THE ELIGIBILITY OF THE INDIVIDUAL CLAIMING BENEFITS AND SHALL NOT PREVENT THE DIVISION FROM LATER DETERMINING THAT THE INDIVIDUAL WAS ENGAGED IN COVERED EMPLOYMENT PURSUANT TO ARTICLE 70 OF TITLE 8 OF THE ACT.

## **18.1 WORK SHARE**

**18.1.1 STATUTORY REFERENCE:** 8-75-203, C.R.S.

### **18.1.2 CRITERIA FOR WORK SHARE PLAN**

.1 THE DIRECTOR SHALL DENY A WORK SHARE PLAN IF THE EMPLOYER HAS SEASONAL STATUS WITH THE DIVISION AND ANY PORTION OF THE WORK SHARE PERIOD IS DURING THE EMPLOYER'S OFF-SEASON.

.2 THE PROVISIONS OF SECTION 8-75-203 (1)(B)(I) NOTWITHSTANDING, THE DIVISION, AT ITS DISCRETION DURING AN ECONOMIC CRISIS OR DECLARED STATE OF EMERGENCY, MAY ACCEPT A WORK SHARE PLAN SUBMITTED BY A NEGATIVE EXCESS EMPLOYER.

.3 AN EMPLOYER WHO HAS BEEN APPROVED FOR A WORKSHARE PLAN MUST REDUCE HOURS AND EARNINGS FOR THE EMPLOYEES IDENTIFIED ON THE WORK SHARE PLAN BY THE SPECIFIC PERCENTAGE APPROVED BY THE DIVISION.

### **18.1.3.1 WORK SHARE PLAN MODIFICATION IN EMERGENCY SITUATIONS.**

AN EMPLOYER CAN SUBMIT A PLAN MODIFICATION FOR A MAXIMUM OF ONE NEW MODIFICATION EVERY 28 DAYS OR NO EARLIER THAN 28 DAYS AFTER THE SUBMISSION OF A PLAN OR PLAN MODIFICATION DURING AN ECONOMIC CRISIS OR DECLARED STATE OF EMERGENCY.

### **18.1.6 Employee Eligibility Under The Work Share Plan**

- .1 An individual who has received all of the work share benefits and regular unemployment compensation benefits available to him or her in a benefit year is an exhaustee for purposes of 8-75-101 C.R.S. and is entitled to receive extended benefits under such sections, provided the claimant is otherwise eligible for such benefits.
- .2 If an individual who is eligible to receive work share benefits has a prior overpayment, which is still outstanding, the director shall offset such overpayment from work share benefits in accordance with 8-81-101 C.R.S.
- .3 If an individual who is eligible to receive work share benefits has been identified as having outstanding child support obligations, the director shall reduce the work share benefits in accordance with 8-73-102 C.R.S.

- .4 WAGES EARNED FROM OTHER PART-TIME WORK WILL NOT REDUCE BENEFITS AND ARE NOT REPORTABLE.
- .5 NO INDIVIDUAL SHALL BE ELIGIBLE TO RECEIVE A WORK SHARE BENEFIT PAYMENT FOR A GIVEN WEEK IF THEIR WORK HOURS IN THAT WEEK ARE SUCH THAT THEIR OVERALL REDUCTION IN HOURS FROM NORMAL WOULD BE LESS THAN TEN PERCENT. IN NO CASE SHALL AN INDIVIDUAL BE ELIGIBLE TO RECEIVE A WORK SHARE BENEFIT PAYMENT FOR A WEEK IF THEIR HOURS OF WORK IN THAT WEEK EXCEEDS THIRTY-SIX.
- .6 AN INDIVIDUAL MAY RECEIVE UP TO 52 WEEKS OF WORK SHARE BENEFITS, NOT TO EXCEED THE MAXIMUM BENEFIT AMOUNT AVAILABLE ON THE CLAIM DURING AN ECONOMIC CRISIS OR DECLARED STATE OF EMERGENCY AND WHEN FEDERAL LAW PERMITS WORKSHARE BENEFITS NORMALLY CHARGED TO AN EMPLOYER'S ACCOUNT TO BE COVERED BY OTHER FUNDING.

**18.1.7 Work Share Program Administration.** The administration of the work share program shall be as follows:

- .1 A work share plan shall be effective on the date it is approved by the director or the first week specified by the employer, whichever is later.
- .2 A WORK SHARE PLAN SHALL EXPIRE TWELVE MONTHS OR LESS AFTER THE EFFECTIVE DATE OF THE PLAN.
- .3 AN EMPLOYER'S CHARGEABILITY UNDER A WORK SHARE PLAN IS SUBJECT TO THE PROVISIONS OF 8-73-108 (3)(E)(I) C.R.S; EXCEPT THAT, DURING AN ECONOMIC CRISIS OR DECLARED STATE OF EMERGENCY, THOSE BENEFITS NORMALLY CHARGED TO THE EMPLOYER'S ACCOUNT SHALL BE CHARGED TO THE FUND.
- .4 An individual who does not work during a week for the work share employer and who is otherwise eligible for benefits shall be paid regular unemployment benefits and the week shall not be counted as a week for which work share benefits were received.

**19.1.4 Actions.** Notwithstanding other sections of colorado law that may require otherwise, this part XIX shall be implemented at the discretion of the division director in accordance with federal law allowances or at the direction of the governor pursuant to an executive order or in the event of a declared state of emergency as described in section 19.1.3, with the direction being consistent with federal law, the division may:

- .1 Waive the waiting week as described in regulation 2.8.6.

- .2 Expand the definition of when an individual is able to work as described by regulation 2.8.2 to comply with orders of an emergency declaration as described in this section 19.1.3.
- .3 Expand the definition of when an individual is available to work as described by regulation 2.8.3 to comply with orders of an emergency declaration as described in this section 19.1.3.
- .4 Waive, **MODIFY, OR BROADEN** the work-search requirement as described in 2.8.4.
- .5 Require that a claimant register for work with the online job database as described by regulation 2.1.2 and 13.1.4 when the work-search requirement is waived.
- .6 Extend the period of job attachment as described by regulation 2.4 to a period no longer than the closure required by the crisis or emergency order or declaration.
- .7 Waive any charges to an employer's account and experience rate; instead, charge the unemployment insurance compensation fund or another fund established for the purpose of paying benefits for the period of the crisis or emergency.
- .8 Extend reporting deadlines for employer's quarterly reports and premium payments when businesses are unable to meet those because:
  - .1 A declared emergency, as described in this section 19.1.3, caused the employer to close their place of business or severely curtail operations.
  - .2 The employer or an immediate family member received a request from a medical professional, local official, or state department to be isolated or quarantined or relocated because of a declared emergency as described in this section 19.1.3.
- .9 Require a claimant or an employer to submit reports or other correspondence in a preferred manner as dictated by the nature of the crisis or emergency.
- .10 EXTEND THE PROTEST PERIOD FOR EMPLOYER'S QUARTERLY STATEMENT OF BENEFITS CHARGED AS DESCRIBED BY REGULATION 11.1.3.**
- .11 EXTEND THE PROTEST PERIOD FOR EMPLOYER'S NOTICE OF PREMIUM RATE AS DESCRIBED BY REGULATION 11.1.4**
- .12 EXTEND THE PROTEST PERIOD FOR EMPLOYER'S QUARTERLY BILL FOR BENEFITS CHARGED AS DESCRIBED BY REGULATION 11.1.7.**