

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

ADRIAN M. FENTY
MAYOR



JOSEPH P. WALSH
DIRECTOR

September 3, 2010

Ms. Gay Gilbert
Administrator
Office of Unemployment Insurance
200 Constitution Avenue, NW
Room S-4231
Washington, DC 20210

RE: District of Columbia Application for Remaining Two-Thirds Unemployment Insurance
Modernization Funds

Dear Ms. Gilbert:

It is with great pleasure that I submit the District of Columbia's application for UI Modernization Incentive Payment pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5). The options under the program allow the District of Columbia to extend eligibility to more claimants while modernizing the DC Office of Unemployment Compensation's aging mainframe legacy computer system. The District of Columbia is fortunate to continue to and historically have a solvent Unemployment Trust Fund. Therefore, under this program, the District of Columbia over the next two years, will completely replace its legacy computer system with a new multifaceted, state-of-the-art technology that will simplify, certify, and secure the Unemployment benefits claims intake and will include a total management process resulting in increased timeliness and accuracy of benefits and superb customer service for both claimants and employers.

The District of Columbia already had in its laws many of the options available for the two-thirds incentive under the American Recovery and Reinvestment Act of 2009 program, including eligibility for part-time workers for unemployment compensation through the District of Columbia Court of Appeals decision in *Elouise Hawkins v. District of Columbia Unemployment Compensation Board*, 390 A.2d 973 (D.C. 1978). Additionally, in July 2010, the Council of the District of Columbia approved the District's unemployment compelling family reasons law. Finally, in August 2009, while not a permanent measure, the District put in a *temporary* dependency allowance (DC Act 18-0182 and DC Act 18-0205) of \$15 per week per dependent up to \$50 per week to assist claimants and their families during this very difficult economic time. This provision sunsets in December 2010.

The District of Columbia chooses two options as part of this application and submits the following information in support of its application for the two-thirds incentive payment pursuant to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) ("Recovery Act") and as outlined in UIPL No. 14-09. The District of Columbia states that it qualifies for the incentive payment as its unemployment insurance law meets two of the provisions for receipt of the incentive payment as detailed below.

a. Extended Training Benefits for Claimants in Approved Training

On May 14, 2010, DC Act 18-0401 was signed into law by Mayor Adrian M. Fenty, which qualifies the District of Columbia for the remainder distribution of Recovery Act modernization.

This permanent law, enclosed, provides an additional training benefit for eligible claimants who have exhausted other available benefits, to provide up to an additional twenty-six weeks of benefits for individuals who are enrolled in and making satisfactory progress in an approved training program. The bill has also passed Congressional Review on July 23, 2010.

To be eligible for the additional training benefit, claimants must have exhausted all regular eligibility under District and federal law. The approved training must prepare individuals who have been separated from a declining occupation or have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment. Additionally, the claimant applying for the additional training benefit must make the application prior to the end of the benefit year and no benefit may be payable more than one year following the end of the benefit year.

b. Eligibility of Part-Time Workers for Unemployment Compensation Benefits

The District of Columbia has also clarified its 1978 court case limiting availability to less than full-time work through Administrative Policy Issuance enclosed.

It is the now the expressed written policy of District of Columbia's Department of Employment Services (DOES) that individual claimants will not be denied continuing unemployment compensation benefits pursuant to the "availability" provisions D.C. Official Code § 51-109(4) solely on the basis of seeking only part-time work if:

- (a) The individual claimant is willing to work at least 20 hours per week and is seeking such work;
- (b) The individual claimant is available for the number of hours per week that are comparable to the number of part-time hours experienced during the claimant's base period and is seeking such work; or ,
- (c) The individual claimant is available for the number of hours per week that are comparable to the number of hours that are comparable to the individuals work at the time of separation from "employment", as that term is defined in the Act, and is seeking such work.

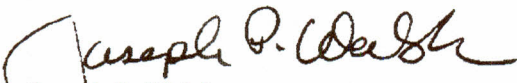
CERTIFICATION

I certify that this application is submitted in good faith with the intention of expanding eligibility to unemployed workers who meet the eligibility provisions on which the application is based. I further certify that these provisions are intended to be permanent and not subject to discontinuation other than repeal by the Council of the District of Columbia.

The District of Columbia intends to deposit this incentive payment into the Unemployment Insurance Trust Fund to be used for modernizing the District of Columbia unemployment system and for training of the new provisions added as part of this application.

If you have any questions or require further information to process this application, please contact me at (202) 671-1900.

Sincerely,


Joseph P. Walsh
Director

Enclosures

ENROLLED ORIGINAL

AN ACT
D.C. ACT 18-401

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 14, 2010

Codification
District of
Columbia
Official Code

2001 Edition

2010 Fall
Supp.

West Group
Publisher

To amend the District of Columbia Unemployment Compensation Act to extend the length of time to file an appeal of an initial determination with respect to benefit eligibility, expand eligibility to those who had to leave jobs for compelling family reasons, improve the administration of the unemployment compensation program, and qualify the District for federal modernization funding pursuant to the American Recovery and Reinvestment Act of 2009.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unemployment Compensation Reform Amendment Act of 2010".

Sec. 2. The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 *et seq.*), is amended as follows:

(a) Section 7 (D.C. Official Code § 51-107) is amended by adding a new subsection (f-1) to read as follows:

Amend
§ 51-107

"(f-1) For claims for benefit years commencing after August 9, 2009, and before January 1, 2011, in addition to benefits payable under subsections (a) through (e) of this section, each eligible individual who is unemployed in any week shall be paid with respect to that week \$15 for each dependent relative, but no more than \$50 or ½ of the individual's weekly benefit amount, whichever is less, with respect to any 1 week of unemployment. The amount of the dependent's allowance paid to an individual shall not be charged to the individual account of an employer. The number of dependents of an individual shall be determined as of the day with respect to which the individual first files a valid claim for benefits in any benefit year and shall remain fixed for the duration of the benefit year. The dependent's allowance shall not be taken into consideration in the total amount of benefits calculated pursuant to subsection (d) of this section."

(b) Section 10 (D.C. Official Code § 51-110) is amended as follows:

Amend
§ 51-110

(1) Subsection (d) is amended by adding new paragraphs (4) and (5) to read as follows:

"(4) Compensation shall not be denied to any otherwise eligible individual who leaves his or her most recent work to accompany his or her spouse or domestic partner to a

place from which it is impractical to commute to the place of employment. For the purposes of this paragraph, the term "domestic partner" shall have the same meaning as provided in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).

"(5) Compensation shall not be denied to any otherwise eligible individual who leaves his or her most recent work to care for an ill or disabled family member. For the purposes of this paragraph, the term "family member" shall have the same meaning as provided in section 102(11B) of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02(11B))."

(2) A new subsection (j) is added to read as follows:

"(j)(1) Notwithstanding any other provision of this act, an individual who is unemployed within the meaning of this act, has exhausted all regular unemployment benefits provided under this act, including any extensions of benefits, and who is enrolled in and making satisfactory progress in a District-approved training program or in a job training program authorized under the Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C. § 2822), shall be eligible for training extension benefits if the Director determines that the following criteria are met:

"(A) The training program will prepare the claimant for entry into a high-demand occupation;

"(B) The claimant was separated from employment in a declining occupation or has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the claimant's place of prior employment;

"(C) The claimant is making satisfactory progress towards completion of the training as determined by the Director, including the submission of written statements from the training program provider; and

"(D) The claimant is not receiving similar stipends or other training allowances for non-training costs.

"(2) For the purposes of paragraph (1) of this subsection, the term:

"(A) "Declining occupation" shall be defined by the Director based upon currently available labor market information.

"(B) "High-demand occupation" shall be defined by the Director based upon currently available labor market information.

"(C) "Similar stipends" means an amount provided under a program with similar goals, such as providing training to increase employability, and in similar amounts. Similar stipends of non-training cost allowances shall be treated as "earnings" as defined in section 1(4).

"(3) A claimant who is eligible for a training extension pursuant to this subsection shall be enrolled in training and making satisfactory progress as the Director may determine will increase the employability of the claimant in the District labor market.

"(4) The weekly training extension benefit amount payable to the eligible

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individual shall be equal to the claimant's weekly benefit amount for the most recent benefit year less any deductible or income as determined pursuant to this act. The total amount of training extension benefits payable to a claimant shall not exceed 26 times the claimant's weekly benefit amount of the most recent benefit year.

"(5) If the claimant completes the training program, ceases to be making satisfactory progress, or stops attending the training program, the claimant shall not be eligible for further training extension benefits unless the Director determines that the claimant has resolved the impediment.

"(6) A claimant seeking training extension benefits may apply for the benefits at any time prior to the end of the claimant's initial benefit year or the end of any period of extended benefits.

"(7) No training extension benefits paid pursuant to this act shall be charged to individual employer accounts."

(c) Section 11(b) (D.C. Official Code § 51-111(b)) is amended as follows:

Amend
§ 51-111

(1) Strike the phrase "10 days" wherever it appears and insert the phrase "15 calendar days" in its place.

(2) Add 2 new sentences after the phrase "actual delivery of such notice." to read as follows: "The 15-day appeal period may be extended if the claimant or any party to the proceeding shows excusable neglect or good cause. The exception for good cause or excusable neglect shall apply to all claims pending on the effective date of the Unemployment Compensation Reform Amendment Act of 2010, passed on 2nd reading on May 4, 2010 (Enrolled version of Bill 18-455), including those in which an appeal has been filed in the Office of Administrative Hearings or in which a petition for review has been filed in the District of Columbia Court of Appeals."

(d) Section 31 (D.C. Official Code § 51-131) is amended to read as follows:

Amend
§ 51-131

"Sec. 31. Separation from employment due to domestic violence.

"(a) Notwithstanding any other provision of this act, no otherwise eligible individual shall be denied benefits for any week because the individual was separated from employment by discharge or voluntary or involuntary resignation due to domestic violence against the individual or any member of the individual's immediate family, unless the individual was the perpetrator of the domestic violence.

"(b) For the purposes of this title, the term "domestic violence" shall have the same meaning as "intrafamily offense", as defined in D.C. Official Code § 16-1001(8)."

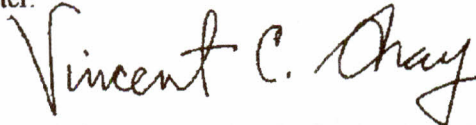
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

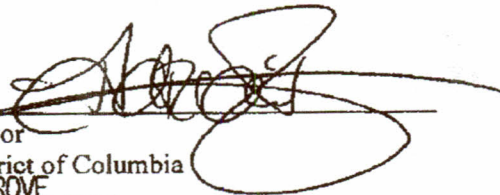
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Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c) (1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVE
MAY 14, 2010

"UNEMPLOYMENT COMPENSATION REFORM ACT OF 2009".

General Information

Legislation # B18-0455	Short Title "UNEMPLOYMENT COMPENSATION REFORM ACT OF 2009".	
Law # L18-0192	Expiration Date	Enactment/Action Date Friday, May 14, 2010

View Legislation Online

- [Introduction](#)
- [Committee Report](#)
- [Engrossment](#)
- [Enrollment](#)

Introduction

Introduction Date Tuesday, September 22, 2009	Place of Introduction Legislative Meeting	Circulation Date Thursday, September 24, 2009
Comments	Official Referral	Committee Re-Referral Date
Committee Reassign	Comments Reassign	Public Notice of Introduction Friday, October 02, 2009
Introduced By MBrown, Thomas, Barry	At Request of	Co-Sponsored By Mendelson, Cheh, Brown, Evans Alexander, Gray

+ **Hearings Information** (click to expand/collapse)

Council Action

Committee Action Wednesday, April 14, 2010	Report Filed 04-19-10	COW Action
Final Vote/Reading 05-04-10, CC	Third Vote/Reading	Reconsideration

+ **Voting Information** (click to expand/collapse)

Mayoral Review

Transmitted Tuesday, May 11, 2010	Review End Date Tuesday, May 25, 2010	Date Signed Friday, May 14, 2010
Override Date	Act/Resolution # A18-0401	Enactment/Action Date Friday, May 14, 2010

Congressional Review

Transmitted Thursday, May 27, 2010	Re Transmitted	Projected DC Law Date Thursday, July 22, 2010
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DC Register Publication

Act/Resolution Date
Friday, May 28, 2010

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DC Law

Law #
L18-0192

Law Effective
Friday, July 23, 2010

Applicability Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

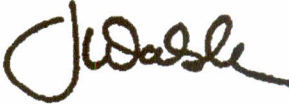
ADRIAN M. FENTY
MAYOR



JOSEPH P. WALSH
DIRECTOR

MEMORANDUM

TO: OFFICE OF UNEMPLOYMENT COMPENSATION EMPLOYEES

FROM: JOSEPH P. WALSH, DIRECTOR 

DATE: SEPTEMBER 3, 2010

SUBJECT: **POLICY ISSUANCE:**
ELIGIBILITY OF PART TIME WORKERS FOR UNEMPLOYMENT
COMPENSATION BENEFITS

1. PURPOSE:

To provide clarity as to the Department of Employment Services (“DOES”) official policy concerning an unemployment compensation claimant’s eligibility for continued unemployment benefits during a benefit year where the claimant is actively seeking and solely available for part-time work.

2. AUTHORITY AND BACKGROUND:

The District of Columbia Court of Appeals decision in *Elouise Hawkins v. District of Columbia Unemployment Compensation Board*, 390 A.2d 973 (D.C. 1978) held that the District of Columbia Unemployment Compensation Act (D.C. Official Code §§ 51-109 (4a) (“Act”) requires a claimant to be available for and seeking work. DOES interprets availability for work as being available for full-time work. More recently, the American Recovery and Reinvestment Act of 2009 (“ARRA”) amended the Social Security Act (42 USC § 903 (f) (3)) to provide guidance as to the on federal position related to compensation for part-time employees.

Accordingly, pursuant to the authority set forth in sections 13(a) and 13(e) of the Act (D.C. Official Code § 51-113(a) and § 51-113(e)) this policy is issued to ensure that District of Columbia unemployment compensation benefits continue to be administered consistent with both the *Elouise Hawkins* decision and the latest federal policy guidance set forth in Unemployment Insurance Program Letter (“UIPL”) 14-09 (2009), Attachment III.

3. POLICY DIRECTIVE:

The underlying policy of the Act is that claimants must be available for work, and actively seeking and making contacts for new work as a condition for receiving unemployment benefits. *Woodward & Lothrop, Inc. v. District of Columbia Unemployment Board*, 129 U.S. App. D.C. 155, 392 F.2d 479 (1968).

It is the policy of DOES that individual claimants will not be denied continuing unemployment compensation benefits pursuant to the “availability” provisions D.C. Official Code § 51-109(4) solely on the basis of seeking only part-time work if:

- (a) The individual claimant is available and is seeking work at least 20 hours per week and is seeking such work;
- (b) The individual claimant is available for the number of hours per week that are comparable to the number of part-time hours experienced during the claimant’s base period and is seeking such work; or ,
- (c) The individual claimant is available for the number of hours per week that are comparable to the number of hours that are comparable to the individuals work at the time of separation from “employment”, as that term is defined in the Act, and is seeking such work.

It is further the policy of DOES that individual claimants, who are available only for part-time work as set forth above, will not be disqualified from benefits because the individual refused to accept full time work solely because the individual is seeking only part-time work.

4. IMPLEMENTATION:

This policy shall be distributed to all DOES personnel involved with the intake or adjudication of unemployment compensation claims (including Claims Examiners, claim representatives, customer representatives in One Stop Career Centers, etc). Managers will schedule training/discussion sessions with personnel to ensure distribution, discussion and understanding of the policy by claims adjudication personnel and other staff.

The next page contains a question flow chart regarding this policy for your use. Additional process information will be shared as needed.

DOES PART-TIME WORK POLICY QUESTION FLOW CHART

