

Received 9-19-09

ER, JR.

J. MARES
Director



DEPARTMENT OF LABOR AND EMPLOYMENT
OFFICE OF THE EXECUTIVE DIRECTOR
633 Seventeenth Street, Suite 1200
Denver, Colorado 80202-3612

September 18, 2009

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

Re: Colorado's Application for the 2009 Unemployment Compensation Modernization Incentive Payments

Dear Ms. Gilbert:

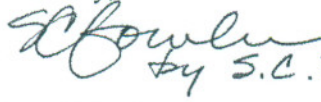
In compliance with Unemployment Insurance Program Letter (UIPL) No. 14-09 and UIPL No. 14-09, Change 1 issued by the U.S. Department of Labor (USDOL), the Colorado Department of Labor and Employment, Unemployment Insurance (UI) Program is submitting its Application for the 2009 Unemployment Compensation Modernization Incentive Payments for your consideration and approval.

To qualify for the two-thirds incentive funds, Colorado made statutory changes allowing for the payment of unemployment compensation when an individual separates due to specific compelling personal reasons and made regulatory changes to part-time worker eligibility requirements.

Enclosed for your review is Senate Bill (SB) 09-247, which accomplished the statute changes. SB 09-247 was signed into law and became effective July 1, 2009. Also enclosed for your review are Colorado's permanent rules regarding benefits rights of part-time workers, including the recently adopted modification, which became effective August 30, 2009, and procedures addressing separation due to specific compelling personal reasons and part-time worker eligibility requirements.

I certify that Colorado's Application for the 2009 Unemployment Compensation Modernization Incentive Payments, as authorized in Section 2003 of the American Recovery and Reinvestment Act of 2009, is made in good faith. I also certify that all of the changes made by SB 09-247 to the Colorado Revised Statutes and the change to the Code of Colorado Regulations are permanent and are not subject to discontinuation under any circumstances other than repeal. Colorado will use the incentive payments it receives for modernizing Colorado's UI Program to pay unemployed workers who meet the eligibility requirements on which the application is based.

Sincerely,


by S.C. FOWLER for

Donald J. Mares
Executive Director

Enclosures

cc: Gerard Hildebrand, U.S. Department of Labor
Joseph C. Juarez, U.S. Department of Labor, Regional Administrator
Margie Shahin, U.S. Department of Labor, Dallas Regional Office
Robert Kenyon, U.S. Department of Labor, Dallas Regional Office
Diann Lowery, U.S. Department of Labor, Dallas Regional Office
Ann Cole, U.S. Department of Labor, Dallas Regional Office

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MODERNIZATION INCENTIVE PAYMENT

Colorado made modifications to its statutes and regulations to include qualifying provisions to make unemployment insurance (UI) benefits payable to individuals who separate from a job because of specific compelling family reasons and to certain part-time workers.

SEPARATIONS DUE TO COMPELLING FAMILY REASONS

Senate Bill (SB) 09-247 (see Attachment II) modifies Colorado statutes to allow the payment of UI benefits when an individual separates from his or her job for the following reasons:

- Because of domestic violence, the individual must meet specific requirements, including reasonably believing that continued employment jeopardizes his or her safety or that of the worker's immediate family and providing specified documentation of the domestic violence.
- To relocate to a new place of residence with his or her spouse because the spouse's employment location changed. Benefits are dependent upon the individual being unable to practically commute to his or her current job and the individual, upon arrival to the new residence, is available for suitable work.
- To care for an ill or disabled immediate family member who requires care for a duration longer than allowed the individual under his or her employer's medical leave of absence policy or the federal "Family and Medical Leave Act of 1993."

The effective date of SB 09-247 is July 1, 2009.

Domestic Violence

The following language is quoted from SB 09-247, Section 3, addressing separations because of domestic violence:

8-73-108. Benefit awards - repeal. (4) **Full award.** An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(r) (I) Separating from a job because of domestic violence may be reason for a determination for a full award if:

(A) The worker reasonably believes that his or her continued employment would jeopardize the safety of the worker or any member of the worker's immediate family and provides the division with substantiating documentation as described in sub-subparagraph (B) or (C) of this subparagraph (I); or

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(B) The worker provides the division with an active or recently issued protective order or other order documenting the domestic violence or a police record documenting recent domestic violence; or

(C) The worker provides the division with a statement substantiating recent domestic violence from a qualified professional from whom the worker has sought assistance for the domestic violence, such as a counselor, shelter worker, member of the clergy, attorney, or health worker.

(IV) The director of the division shall adopt rules as necessary to implement and administer this paragraph (r).

(V) As used in this paragraph (r), "immediate family" means the worker's spouse, parent, or minor child under eighteen years of age.

Procedures for Domestic Violence Separations

The new law changes its language from "domestic abuse" to "domestic violence." Because the law reads "separating," the provisions apply to a quit or a discharge.

The worker must reasonably believe that remaining in the job would jeopardize his or her safety or the safety of an immediate family member (spouse, parent, or dependent child under 18) **and** must provide **one** of the following to document recent domestic violence:

- A copy of an active or recently issued protective order
- A copy of a recent police report
- A statement from a qualified helper, such as a counselor, shelter worker, clergy member, attorney, or health worker

Accompany Spouse Whose Employment Location Changed

The following language is quoted from SB 09-247, Section 4, addressing separations to accompany a spouse whose employment location changed:

8-73-108 (4) Full award. An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(u) (I) Separating from a job due to a change in location of the employment of the worker's spouse that necessitates a new place of residence for the worker, either within or outside Colorado, from which it is impractical to commute to the worker's place of employment, and upon arrival at the new place of residence, the individual is in all respects available for suitable work. The director of the division shall adopt rules as necessary to implement and administer this paragraph (u).

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Procedures for Accompanying a Spouse

Because the law reads "separated," the provision applies to a quit or a discharge. Chances that it would be anything other than a quit are minimal. The separation must include two elements:

- The place of employment of the spouse must have changed. This could include a transfer, a new job, or a company moved.
- It must be impractical for the claimant to commute from the new location.

Care for Ill or Disabled Immediate Family Member

The following language is quoted from SB 09-247, Section 4, addressing separations to care for an ill or disabled immediate family member:

8-73-108 (4) Full award. An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(v) (I) Separating from a job because a member of the worker's immediate family is suffering from an illness that requires the worker to care for the immediate family member for a period that exceeds the greater of the employer's medical leave of absence policy or the provisions of the federal "Family and Medical Leave Act of 1993" if the worker meets the following requirements:

(A) The worker informed his or her employer, if the employer has posted or given actual advance notice of the requirement to so inform the employer, of the condition of the worker's immediate family member; and

(B) The worker provides the division, when requested, a competent statement verifying the condition of the worker's immediate family member.

(II) Separating from a job because a member of the worker's immediate family is suffering from a disability that requires the worker to care for the immediate family member for a period that exceeds the greater of the employer's medical leave of absence policy or the provisions of the federal "Family and Medical Leave Act of 1993" if the worker meets the following requirements:

(A) The worker informed his or her employer, if the employer has posted or given actual advance notice of the requirement to so inform the employer, of the condition of the worker's immediate family member; and

(B) The worker provides the division, when requested, a competent statement verifying the condition of the worker's immediate family member.

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(III) The director of the division shall adopt rules as necessary to implement and administer this paragraph (v).

(IV) Any benefits awarded to the claimant under this paragraph (v) normally chargeable to the employer shall be charged to the fund, and any such benefits shall not affect an employer's premium.

(V) As used in this paragraph (v):

(A) "Disability" means all types of verified disability, including, without limitation, mental and physical disabilities; permanent and temporary disabilities; and partial and total disabilities.

(B) "Illness" means verified poor health or sickness.

(C) "Immediate family member" means the worker's spouse, parent, or minor child under eighteen years of age.

Procedures for Caring for a Family Member

Because the law reads "separated," the provision applies to a quit or a discharge.

The separation must include two elements:

- The worker is separated because he or she must care for an immediate family member (spouse, parent, dependent child under 18) who has an illness or disability.
- The time involved in the care required must be longer than the employer is willing to accommodate under the employer's medical-leave allowance or under the provisions of the FMLA, whichever would have been longer. If the employer has no leave policy or is not covered under FMLA **or** if the illness or disability is not covered under either, then the time required is greater than zero, and the law applies.

The worker must inform the employer if the employer has notified the worker in advance of the need to do so.

The law states "requires the worker to care for." That does not mean that the worker has to provide the medical care that the family member requires. Rather, it refers to any activity that goes into the care of the family member. Such activities include, but are not limited to, arranging for a caregiver and taking the family member to appointments. The worker need not prove that no reasonable alternative exists.

The law indicates that the condition of the family member must be verified by competent statement but does not define *competent statement*. The law also states that the worker must provide verification of the condition to the UI Program, if requested to do so.

- The claimant's statement of the family member's condition is considered competent. Written verification of the condition is not necessary, unless the adjudicator suspects that something is not right. At his or her discretion, the adjudicator may request documentation of the condition. Documentation may be from a doctor, a medical provider, social services, an aid agency, etc.

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Illness includes both poor health and sickness. Disability can be mental, physical, permanent, temporary, partial, and/or total.

Claimant availability must be addressed.

Misconduct and Separations for Compelling Family Reasons

In all cases of separations related to compelling family reasons, Colorado's law indicates that if the individual separates, regardless of whether the separation is a quit or a discharge, because of domestic violence, to accompany a spouse whose employment location changed, or to care for an ill or disabled family member, benefits are awarded if all the requirements listed in the statute are met.

Generally speaking, under Colorado law, benefits are denied if an individual is "at fault" for the separation. In the instances of a separation because of one of the compelling family reasons, if a separation occurs as a direct result of something that could be determined to be the claimant's fault (i.e., absenteeism) but it meets all of the requirements under one of the compelling-family-reason statutes, the claimant would not be found to be at fault for the separation and benefits are awarded.

PART-TIME WORKERS

The following language is quoted from the Colorado Revised Statutes (CRS) regarding part-time workers:

8-73-105. Part-time workers. (1) As used in this section, "part-time worker" means an individual whose normal work is in an occupation in which his services are not required for the customary scheduled full-time hours prevailing in the establishment in which he is employed or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he is employed.

(2) The director of the division shall prescribe fair and reasonable general rules applicable to part-time workers for determining their full-time weekly wage and the total wages for employment by employers required to qualify such workers for benefits. The rules, with respect to such part-time workers, shall supersede any inconsistent provisions of articles 70 to 82 of this title but, so far as practicable, shall secure results reasonably similar to those provided in the analogous provisions of articles 70 to 82 of this title.

Code of Colorado Regulations for Part-Time Workers

Colorado proposed an amendment to its part-time worker eligibility regulations to clarify the provision in the Code of Colorado Regulations (see Attachment III). Colorado promulgated the clarification to the part-time provision June 30, 2009, via a public hearing. Upon conclusion of the hearing, the Director of the Division of Employment and Training adopted the change in the provision. The Colorado UI Program filed the adopted change in accordance with 24-4-103, CRS, with the Colorado Secretary of State.

The modified part-time provision allows an individual to seek part-time work if he or she worked part-time for the majority of weeks of work in his or her base period for one or more employers.

The effective date of the part-time rule is August 30, 2009.

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Procedures for Part-Time Workers

There are a number of procedures associated with part-time workers, including those related to a worker being able to work, available for work, and actively seeking work. In addition to that set of procedures, there are procedures associated with job refusals and what is suitable work for a part-time worker.

Able, Available, and Actively Seeking

In order to be eligible for UI benefits, a claimant must be able to work, available for work, and actively seeking work. In addition, the claimant must be willing to accept suitable work. These requirements are based on sections 8-73-107 and 8-73-108, CRS. Staff makes eligibility decisions based on the law and on the guidelines contained in the Code of Colorado Regulations.

NOTE: A claimant who is considered a part-time worker (Refer to Regulation 2.2.2) must be available for part-time work and must seek part-time work. Such a claimant is not denied benefits because he or she is available only for part-time work or is seeking only part-time work.

Job Refusals and Suitable Work

A refusal of work that is not suitable has no impact on the claimant's entitlement to benefits. Staff determines suitability on a case-by-case basis and has considerable discretion.

The CRS lists both factors of suitable work and labor standards in its references to a job refusal. Staff must look at both the suitable-work criteria and the labor standards to determine whether work is suitable for a particular claimant, at a particular time, and in a particular place. A job may meet all the labor-standards criteria and still not be suitable work for this particular claimant.

FACTORS OF SUITABLE WORK

The factors that must be considered in determining the suitability of work are listed in the section 8-73-108 (5) (b), CRS. They include:

- The degree of risk involved to the worker's health, safety, and morals.
- The worker's physical fitness and prior training.
- The worker's experience and prior earnings.
- The worker's length of unemployment and prospects for securing work in his or her customary occupation.
- The distance of the available local work from the worker's residence.

NOTE: *Suitable work* for a claimant who is deemed a part-time worker under Regulation 2.2.2 is part-time work. A claimant who was a part-time worker is not denied benefits for refusing a full-time job.

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SENATE BILL 09-247

BY SENATOR(S) Tochtrop, Bacon, Boyd, Carroll M., Foster, Gibbs, Groff, Heath, Hodge, Hudak, Isgar, Morse, Newell, Romer, Sandoval, Schwartz, Shaffer B., Veiga;
also REPRESENTATIVE(S) Pace, Apuan, Casso, Fischer, Frangas, Green, Kefalas, Labuda, McFadyen, Pommer, Ryden, Soper, Vigil.

CONCERNING THE EXPANSION OF BENEFITS FOR UNEMPLOYED WORKERS IN
COLORADO, AND MAKING AN APPROPRIATION IN CONNECTION
THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 8-70-103, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW SUBSECTION to read:

8-70-103. Definitions. As used in articles 70 to 82 of this title,
unless the context otherwise requires:

(1.5) "ALTERNATIVE BASE PERIOD" MEANS THE LAST FOUR
COMPLETED CALENDAR QUARTERS IMMEDIATELY PRECEDING THE BENEFIT
YEAR.

SECTION 2. 8-73-102 (1), Colorado Revised Statutes, is amended

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to read:

8-73-102. Weekly benefit amount for total unemployment.

(1) (a) Except as otherwise provided in section 8-73-104 or subsection (2) of this section, each eligible individual who is totally unemployed in any week shall be paid, with respect to such week, benefits at the rate of sixty percent of one-twenty-sixth of the wages paid for insured work during the two consecutive quarters of his THE INDIVIDUAL'S base period in which such total wages were highest, computed to the next lower multiple of one dollar but not more than one-half of the average weekly earnings in all covered industries in Colorado according to the records of the division, as computed by the division in June for the ensuing twelve months beginning July 1, on the basis of the most recent available figures, and not less than twenty-five dollars.

(b) (I) IF AN INDIVIDUAL DOES NOT HAVE SUFFICIENT QUALIFYING WEEKS OR WAGES IN THE BASE PERIOD TO QUALIFY FOR UNEMPLOYMENT INSURANCE BENEFITS, THE INDIVIDUAL SHALL HAVE THE OPTION OF DESIGNATING THAT THE BASE PERIOD SHALL BE THE ALTERNATIVE BASE PERIOD.

(II) IF INFORMATION REGARDING WEEKS AND WAGES FOR THE CALENDAR QUARTER IMMEDIATELY PRECEDING THE FIRST DAY OF THE BENEFIT YEAR IS NOT AVAILABLE FROM THE REGULAR QUARTERLY REPORTS OF WAGE INFORMATION, AND THE DIVISION IS NOT ABLE TO OBTAIN THE INFORMATION USING OTHER MEANS PURSUANT TO STATE OR FEDERAL LAW, THE DIVISION MAY BASE THE DETERMINATION OF ELIGIBILITY FOR UNEMPLOYMENT INSURANCE BENEFITS ON THE AFFIDAVIT OF THE UNEMPLOYED INDIVIDUAL WITH RESPECT TO WEEKS AND WAGES FOR THAT CALENDAR QUARTER. THE INDIVIDUAL SHALL FURNISH PAYROLL DOCUMENTATION, IF AVAILABLE, IN SUPPORT OF THE AFFIDAVIT. THE DIVISION SHALL VERIFY THE EMPLOYEE'S WAGE INFORMATION. A DETERMINATION OF UNEMPLOYMENT INSURANCE BENEFITS BASED ON AN ALTERNATIVE BASE PERIOD SHALL BE ADJUSTED WHEN THE QUARTERLY REPORT OF WAGE INFORMATION FROM THE EMPLOYER IS RECEIVED, IF THAT INFORMATION CAUSES A CHANGE IN THE DETERMINATION.

SECTION 3. 8-73-108 (4) (r) (I), Colorado Revised Statutes, is amended, and the said 8-73-108 (4) (r) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

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8-73-108. Benefit awards - repeal. (4) Full award. An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(r) (I) ~~Quitting~~ SEPARATING FROM a job because of domestic abuse VIOLENCE may be reason for a determination for a full award only if:

(A) THE WORKER REASONABLY BELIEVES THAT HIS OR HER CONTINUED EMPLOYMENT WOULD JEOPARDIZE THE SAFETY OF THE WORKER OR ANY MEMBER OF THE WORKER'S IMMEDIATE FAMILY AND PROVIDES THE DIVISION WITH SUBSTANTIATING DOCUMENTATION AS DESCRIBED IN SUB-SUBPARAGRAPH (B) OR (C) OF THIS SUBPARAGRAPH (I); OR

~~(A) (B) The worker provides the division has been provided a copy of a police report, criminal charges, protection order, medical records, or any other corroborative evidence~~ WITH AN ACTIVE OR RECENTLY ISSUED PROTECTIVE ORDER OR OTHER ORDER documenting the domestic abuse VIOLENCE OR A POLICE RECORD DOCUMENTING RECENT DOMESTIC VIOLENCE;
OR

~~(B) (C) The worker provides written substantiation that the worker is receiving assistance or counseling~~ THE DIVISION WITH A STATEMENT SUBSTANTIATING RECENT DOMESTIC VIOLENCE from a recognized ~~counseling entity~~ QUALIFIED PROFESSIONAL FROM WHOM THE WORKER HAS SOUGHT ASSISTANCE for THE domestic abuse VIOLENCE, SUCH AS A COUNSELOR, SHELTER WORKER, MEMBER OF THE CLERGY, ATTORNEY, OR HEALTH WORKER.

~~(C) (Deleted by amendment, L. 2005, p. 320, § 2, effective August 8, 2005.)~~

(IV) THE DIRECTOR OF THE DIVISION SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT AND ADMINISTER THIS PARAGRAPH (r).

(V) AS USED IN THIS PARAGRAPH (r), "IMMEDIATE FAMILY" MEANS

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THE WORKER'S SPOUSE, PARENT, OR MINOR CHILD UNDER EIGHTEEN YEARS OF AGE.

SECTION 4. 8-73-108 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

8-73-108. Benefit awards - repeal. (4) Full award. An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(u) (I) SEPARATING FROM A JOB DUE TO A CHANGE IN LOCATION OF THE EMPLOYMENT OF THE WORKER'S SPOUSE THAT NECESSITATES A NEW PLACE OF RESIDENCE FOR THE WORKER, EITHER WITHIN OR OUTSIDE COLORADO, FROM WHICH IT IS IMPRACTICAL TO COMMUTE TO THE WORKER'S PLACE OF EMPLOYMENT, AND UPON ARRIVAL AT THE NEW PLACE OF RESIDENCE, THE INDIVIDUAL IS IN ALL RESPECTS AVAILABLE FOR SUITABLE WORK. THE DIRECTOR OF THE DIVISION SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT AND ADMINISTER THIS PARAGRAPH (u).

(II) ANY BENEFITS AWARDED TO THE CLAIMANT UNDER THIS PARAGRAPH (u) NORMALLY CHARGEABLE TO THE EMPLOYER SHALL BE CHARGED TO THE FUND.

(v) (I) SEPARATING FROM A JOB BECAUSE A MEMBER OF THE WORKER'S IMMEDIATE FAMILY IS SUFFERING FROM AN ILLNESS THAT REQUIRES THE WORKER TO CARE FOR THE IMMEDIATE FAMILY MEMBER FOR A PERIOD THAT EXCEEDS THE GREATER OF THE EMPLOYER'S MEDICAL LEAVE OF ABSENCE POLICY OR THE PROVISIONS OF THE FEDERAL "FAMILY AND MEDICAL LEAVE ACT OF 1993" IF THE WORKER MEETS THE FOLLOWING REQUIREMENTS:

(A) THE WORKER INFORMED HIS OR HER EMPLOYER, IF THE EMPLOYER HAS POSTED OR GIVEN ACTUAL ADVANCE NOTICE OF THE REQUIREMENT TO SO INFORM THE EMPLOYER, OF THE CONDITION OF THE

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WORKER'S IMMEDIATE FAMILY MEMBER; AND

(B) THE WORKER PROVIDES THE DIVISION, WHEN REQUESTED, A COMPETENT STATEMENT VERIFYING THE CONDITION OF THE WORKER'S IMMEDIATE FAMILY MEMBER.

(II) SEPARATING FROM A JOB BECAUSE A MEMBER OF THE WORKER'S IMMEDIATE FAMILY IS SUFFERING FROM A DISABILITY THAT REQUIRES THE WORKER TO CARE FOR THE IMMEDIATE FAMILY MEMBER FOR A PERIOD THAT EXCEEDS THE GREATER OF THE EMPLOYER'S MEDICAL LEAVE OF ABSENCE POLICY OR THE PROVISIONS OF THE FEDERAL "FAMILY AND MEDICAL LEAVE ACT OF 1993" IF THE WORKER MEETS THE FOLLOWING REQUIREMENTS:

(A) THE WORKER INFORMED HIS OR HER EMPLOYER, IF THE EMPLOYER HAS POSTED OR GIVEN ACTUAL ADVANCE NOTICE OF THE REQUIREMENT TO SO INFORM THE EMPLOYER, OF THE CONDITION OF THE WORKER'S IMMEDIATE FAMILY MEMBER; AND

(B) THE WORKER PROVIDES THE DIVISION, WHEN REQUESTED, A COMPETENT STATEMENT VERIFYING THE CONDITION OF THE WORKER'S IMMEDIATE FAMILY MEMBER.

(III) THE DIRECTOR OF THE DIVISION SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT AND ADMINISTER THIS PARAGRAPH (v).

(IV) ANY BENEFITS AWARDED TO THE CLAIMANT UNDER THIS PARAGRAPH (v) NORMALLY CHARGEABLE TO THE EMPLOYER SHALL BE CHARGED TO THE FUND, AND ANY SUCH BENEFITS SHALL NOT AFFECT AN EMPLOYER'S PREMIUM.

(V) AS USED IN THIS PARAGRAPH (v):

(A) "DISABILITY" MEANS ALL TYPES OF VERIFIED DISABILITY, INCLUDING, WITHOUT LIMITATION, MENTAL AND PHYSICAL DISABILITIES; PERMANENT AND TEMPORARY DISABILITIES; AND PARTIAL AND TOTAL DISABILITIES.

(B) "ILLNESS" MEANS VERIFIED POOR HEALTH OR SICKNESS.

(C) "IMMEDIATE FAMILY MEMBER" MEANS THE WORKER'S SPOUSE,

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PARENT, OR MINOR CHILD UNDER EIGHTEEN YEARS OF AGE.

SECTION 5. 8-73-108 (5) (e) (IV) and (5) (e) (XXII), Colorado Revised Statutes, are amended to read:

8-73-108. Benefit awards - repeal. (5) Disqualification.
(e) Subject to the maximum reduction consistent with federal law, and insofar as consistent with interstate agreements, if a separation from employment occurs for any of the following reasons, the employer from whom such separation occurred shall not be charged for benefits which are attributable to such employment and, because any payment of benefits which are attributable to such employment out of the fund as defined in section 8-70-103 (13) shall be deemed to have an adverse effect on such employer's account in such fund, no payment of such benefits shall be made from such fund:

(IV) Quitting to move to another area as a matter of personal preference, ~~or to maintain contiguity with another person or persons;~~ unless such move was ~~for health reasons or pursuant to the OTHER provisions of paragraph (f) of subsection (4) of this section;~~

(XXII) Quitting under conditions involving personal reasons, ~~that do not, under other provisions of this section, provide for an award of benefits, including compelling personal reasons~~ UNLESS THE PERSONAL REASONS WERE COMPELLING PURSUANT TO OTHER PROVISIONS OF SUBSECTION (4) OF THIS SECTION;

SECTION 6. Article 73 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8-73-114. Enhanced unemployment insurance compensation benefits - eligibility - approved training programs - amount of benefits - outreach - repeal. (1) ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS ARE AVAILABLE FOR AN UNEMPLOYMENT INSURANCE CLAIMANT ON A REGULAR STATE UNEMPLOYMENT CLAIM WHO IS ENROLLED IN AND MAKING SATISFACTORY PROGRESS, AS CERTIFIED BY THE TRAINING PROGRAM PROVIDER, IN AN APPROVED TRAINING PROGRAM.

(2) AN APPROVED TRAINING PROGRAM SHALL PREPARE THE ELIGIBLE UNEMPLOYMENT INSURANCE CLAIMANT FOR ENTRY INTO A HIGH-DEMAND

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OCCUPATION, AN OCCUPATION THAT LEADS TO STABLE, LONG-TERM EMPLOYMENT, OR AN OCCUPATION IN THE RENEWABLE ENERGY INDUSTRY. THE DIRECTOR OF THE DIVISION SHALL IDENTIFY SUCH OCCUPATIONS BASED UPON THE RECOMMENDATIONS OF LOCAL WORK FORCE INVESTMENT BOARDS, WORKING WITH THE SECTION OF THE DIVISION RESPONSIBLE FOR LABOR MARKET INFORMATION.

(3) (a) ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS SHALL BE PAYABLE TO AN ELIGIBLE UNEMPLOYMENT INSURANCE CLAIMANT WHO SATISFIES THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION AS FOLLOWS:

(I) THE TOTAL ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFIT AMOUNT SHALL BE EQUAL TO TWENTY WEEKS OF BENEFITS ON THE REGULAR CLAIM OR FORTY PERCENT OF THE MAXIMUM BENEFIT AMOUNT ON THE REGULAR CLAIM, WHICHEVER IS LESS.

(II) THE ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFIT SHALL BE PAID WEEKLY, IN ADDITION TO THE REGULAR WEEKLY BENEFIT AMOUNT, PAYABLE IN INCREMENTS EQUAL TO FIFTY PERCENT OF THE REGULAR WEEKLY BENEFIT AMOUNT, ROUNDED DOWN TO THE NEAREST WHOLE DOLLAR.

(b) ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS SHALL NOT BE PAID PURSUANT TO THIS SECTION AFTER JUNE 30, 2012.

(4) (a) THE DIRECTOR OF THE DIVISION SHALL ADOPT RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THAT THE DIRECTOR DEEMS NECESSARY FOR THE PROPER ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT OF FEDERAL LAW AND THIS SECTION.

(b) THE DIVISION SHALL DEVELOP AND IMPROVE OUTREACH EFFORTS TO UNEMPLOYED WORKERS, AND PARTICULARLY TRADITIONALLY UNDERSERVED POPULATIONS, TO INFORM THEM OF THE AVAILABILITY OF ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS UNDER THIS SECTION. SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY PURSUANT TO SECTION 8-77-107, THE DIVISION IS AUTHORIZED TO EXPEND UP TO FIVE HUNDRED THOUSAND DOLLARS IN THE FEDERAL UNEMPLOYMENT TRUST FUND RECEIVED PURSUANT TO THE FEDERAL "AMERICAN RECOVERY

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AND REINVESTMENT ACT OF 2009" AND SECTION 903(g) OF THE FEDERAL "SOCIAL SECURITY ACT" TO COVER ITS ADMINISTRATIVE COSTS RELATED TO ITS OUTREACH EFFORTS.

(5) THE DIVISION IS AUTHORIZED TO PAY ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS PURSUANT TO THIS SECTION BUT MAY NOT OBLIGATE EXPENDITURES BEYOND THE LIMITS SPECIFIED IN THIS SECTION OR AS OTHERWISE ESTABLISHED BY THE GENERAL ASSEMBLY. FOR THE 2009-2010, 2010-2011, AND 2011-2012 FISCAL YEARS, THE DIRECTOR OF THE DIVISION MAY OBLIGATE A TOTAL OF FIFTEEN MILLION DOLLARS TO BE EXPENDED OVER THOSE THREE FISCAL YEARS.

(6) BY DECEMBER 31, 2009, AND BY EACH DECEMBER 31 THEREAFTER UNTIL DECEMBER 31, 2011, THE DIVISION SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, REGARDING THE STATUS OF THE ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS PROGRAM AND THE RESULTING OUTCOMES. THE REPORT SHALL INCLUDE AT LEAST THE FOLLOWING:

(a) A DEMOGRAPHIC ANALYSIS OF PARTICIPANTS IN THE ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS PROGRAM UNDER THIS SECTION, INCLUDING THE NUMBER OF CLAIMANTS PER NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE AND THE GENDER, RACE, AGE, AND GEOGRAPHIC REPRESENTATION OF PARTICIPANTS;

(b) THE DURATION OF THE ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS CLAIMED PER ELIGIBLE UNEMPLOYMENT INSURANCE CLAIMANT;

(c) AN ANALYSIS OF THE TRAINING PROVIDED TO PARTICIPANTS, INCLUDING THE OCCUPATIONAL CATEGORY SUPPORTED BY THE TRAINING, THOSE PARTICIPANTS WHO COMPLETED TRAINING IN RELATIONSHIP TO THOSE THAT DO NOT COMPLETE TRAINING, AND THE REASONS FOR NONCOMPLETION OF APPROVED TRAINING PROGRAMS;

(d) THE EMPLOYMENT AND WAGE HISTORY OF PARTICIPANTS, INCLUDING THE PRE-TRAINING AND POST-TRAINING WAGE AND WHETHER THOSE PARTICIPATING IN TRAINING RETURN TO THEIR PREVIOUS EMPLOYER

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OR OCCUPATION AFTER TRAINING;

(e) AN IDENTIFICATION AND ANALYSIS OF ADMINISTRATIVE COSTS AT BOTH THE LOCAL AND STATE LEVEL FOR ADMINISTERING THE ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS PROGRAM.

(7) ANY ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS AWARDED PURSUANT TO THIS SECTION TO AN ELIGIBLE UNEMPLOYMENT INSURANCE CLAIMANT THAT ARE NORMALLY CHARGEABLE TO THE EMPLOYER SHALL BE CHARGED TO THE FUND.

(8) AS USED IN THIS SECTION:

(a) (I) "APPROVED TRAINING PROGRAM" MEANS A VOCATIONAL TRAINING OR REGISTERED APPRENTICESHIP PROGRAM APPROVED BY THE DIRECTOR OF THE DIVISION THAT:

(A) IS TARGETED TO TRAINING FOR A HIGH-DEMAND OCCUPATION, AN OCCUPATION THAT WOULD BE MORE STABLE AND LONG-TERM FOR THE UNEMPLOYMENT INSURANCE CLAIMANT, OR AN OCCUPATION IN THE RENEWABLE ENERGY INDUSTRY; AND

(B) IS LIKELY TO ENHANCE THE UNEMPLOYMENT INSURANCE CLAIMANT'S MARKETABLE SKILLS AND EARNING POWER.

(II) "APPROVED TRAINING PROGRAM" DOES NOT INCLUDE ANY COURSE OF EDUCATION PRIMARILY INTENDED TO MEET THE REQUIREMENTS OF AN ASSOCIATE, BACCALAUREATE, OR HIGHER DEGREE, UNLESS THE TRAINING MEETS SPECIFIC REQUIREMENTS FOR CERTIFICATION, LICENSING, OR SPECIFIC SKILLS NECESSARY FOR THE OCCUPATION.

(b) "ELIGIBLE UNEMPLOYMENT INSURANCE CLAIMANT" MEANS AN UNEMPLOYMENT INSURANCE CLAIMANT ON A REGULAR STATE UNEMPLOYMENT CLAIM WHO IS RECEIVING BENEFITS PURSUANT TO SECTION 8-73-108 AND IS ELIGIBLE FOR ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS PURSUANT TO THIS SECTION.

(c) "ENHANCED UNEMPLOYMENT INSURANCE COMPENSATION BENEFITS" MEANS ADDITIONAL BENEFITS PAID TO AN ELIGIBLE UNEMPLOYMENT INSURANCE CLAIMANT IN ACCORDANCE WITH THIS SECTION.

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(d) "TRAINING PROGRAM PROVIDER" MEANS A POSTSECONDARY EDUCATIONAL INSTITUTION, INCLUDING AN INSTITUTION OF HIGHER EDUCATION, A COMMUNITY OR TECHNICAL COLLEGE, AND AN OCCUPATIONAL EDUCATION PROGRAM, PROVIDING A TRAINING PROGRAM APPROVED BY THE DIVISION OR AUTHORIZED UNDER THE FEDERAL "WORKFORCE INVESTMENT ACT OF 1998", 29 U.S.C. SEC. 2801 ET SEQ., AS AMENDED.

(9) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2012.

SECTION 7. Article 72 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8-72-113. Annual report - federal stimulus moneys to expand unemployment benefits - repeal. (1) (a) BY DECEMBER 31, 2009, AND BY EACH DECEMBER 31 THEREAFTER UNTIL FEDERAL STIMULUS MONEYS HAVE BEEN EXHAUSTED, THE DIVISION, IN CONNECTION WITH ITS REPORTING REQUIREMENTS SET FORTH IN SECTION 8-73-114 (6), SHALL REPORT ON THE TOTAL ACCUMULATED FEDERAL STIMULUS MONEYS EXPENDED AS OF DECEMBER 1 OF THE YEAR IN WHICH THE REPORT IS SUBMITTED IN CONNECTION WITH THE EXPANSION OF UNEMPLOYMENT INSURANCE BENEFITS ENACTED BY SENATE BILL 09-247 IN 2009. THE REPORT SHALL DELINEATE THE PORTIONS OF THE FEDERAL STIMULUS MONEYS EXPENDED IN CONNECTION WITH EACH AREA OF EXPANSION OF UNEMPLOYMENT INSURANCE BENEFITS ENACTED PURSUANT TO SENATE BILL 09-247.

(b) AS USED IN THIS SECTION, "FEDERAL STIMULUS MONEYS" MEANS UNEMPLOYMENT COMPENSATION MODERNIZATION INCENTIVE PAYMENTS MADE TO THE STATE'S UNEMPLOYMENT TRUST FUND IN ACCORDANCE WITH THE FEDERAL "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009", PUB.L. 111-5, FOR ENACTING UNEMPLOYMENT COMPENSATION MODERNIZATION AS REQUIRED BY THE FEDERAL ACT.

(2) (a) THIS SECTION IS REPEALED, EFFECTIVE WHEN THE STATE HAS EXHAUSTED ALL OF THE FEDERAL STIMULUS MONEYS PROVIDED TO THE STATE TO FUND THE EXPANSION OF UNEMPLOYMENT INSURANCE BENEFITS ENACTED BY SENATE BILL 09-247 IN 2009.

(b) THE DIRECTOR OF THE DIVISION SHALL NOTIFY THE REVISOR OF STATUTES, IN WRITING, WHEN THE CONDITION SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2) HAS BEEN SATISFIED.

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SECTION 8. 8-75-101, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

8-75-101. Definitions. As used in this article, unless the context otherwise requires:

(4.5) "HIGH UNEMPLOYMENT PERIOD" MEANS A PERIOD IN WHICH THE SEASONALLY ADJUSTED TOTAL UNEMPLOYMENT RATE, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE MOST RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES IS PUBLISHED, EQUALS OR EXCEEDS EIGHT PERCENT.

(9.5) "TOTAL UNEMPLOYMENT RATE" OR "TUR" MEANS THE PERCENTAGE DERIVED BY DIVIDING THE NUMBER OF ALL UNEMPLOYED PERSONS IN THE CIVILIAN LABOR FORCE BY THE NUMBER OF INDIVIDUALS COMPRISING THE TOTAL LABOR FORCE, INCLUDING BOTH EMPLOYED AND UNEMPLOYED INDIVIDUALS, AND THEN MULTIPLYING THAT NUMBER BY ONE HUNDRED.

SECTION 9. Article 75 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8-75-108. Total unemployment rate extended benefits. (1) WITH RESPECT TO WEEKS OF UNEMPLOYMENT BEGINNING ON OR AFTER MARCH 22, 2009, AND ENDING ON DECEMBER 5, 2009, OR FOUR WEEKS BEFORE THE LAST WEEK FOR WHICH FEDERAL SHARING IS AUTHORIZED BY SECTION 2005 (a) OF PUB.L. 111-5 AND ANY AMENDMENTS THERETO, WHICHEVER IS LATER:

(a) THERE IS AN "ON" INDICATOR FOR A WEEK OF TUR EXTENDED BENEFITS, IN THE AMOUNT DETERMINED PURSUANT TO SECTIONS 8-75-104 AND 8-75-105, IF ALL OF THE FOLLOWING APPLIES:

(I) THE SEASONALLY ADJUSTED TUR, AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE MOST RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES IS PUBLISHED, EQUALS OR EXCEEDS SIX AND ONE-HALF PERCENT; AND

(II) THE AVERAGE TUR IN THE STATE EQUALS OR EXCEEDS ONE HUNDRED TEN PERCENT OF THE TUR FOR EITHER OR BOTH OF THE

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CORRESPONDING THREE-MONTH PERIODS IN THE TWO PRECEDING CALENDAR YEARS.

(b) THERE IS AN "OFF" INDICATOR FOR WEEKS OF TUR EXTENDED BENEFITS IF ANY OF THE FOLLOWING APPLIES:

(I) THE TUR FALLS BELOW SIX AND ONE-HALF PERCENT; OR

(II) THE REQUIREMENTS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE NOT SATISFIED.

(2) THE TOTAL AMOUNT OF TUR EXTENDED BENEFITS PAYABLE IN A HIGH UNEMPLOYMENT PERIOD TO AN ELIGIBLE INDIVIDUAL WITH RESPECT TO HIS OR HER APPLICABLE BENEFIT YEAR SHALL BE THE LEAST OF THE FOLLOWING AMOUNTS:

(a) EIGHTY PERCENT OF THE TOTAL AMOUNT OF REGULAR BENEFITS THAT WERE PAYABLE TO THE ELIGIBLE INDIVIDUAL UNDER ARTICLES 70 TO 82 OF THIS TITLE IN THE APPLICABLE BENEFIT YEAR; OR

(b) TWENTY TIMES THE WEEKLY BENEFIT AMOUNT THAT WAS PAYABLE TO THE ELIGIBLE INDIVIDUAL UNDER ARTICLES 70 TO 82 OF THIS TITLE FOR A WEEK OF TOTAL UNEMPLOYMENT IN THE APPLICABLE BENEFIT YEAR.

SECTION 10. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the unemployment compensation fund, created in section 8-77-101 (1) (a), Colorado revised statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the division of employment and training, for the fiscal year beginning July 1, 2009, the sum of two hundred thirty-four thousand one hundred ninety-two dollars (\$234,192), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of the Colorado unemployment insurance trust fund, created in section 8-77-102 (4), Colorado revised statutes, from moneys distributed in accordance with Section 903 (g) of the federal Social Security Act, not otherwise appropriated, to the department of labor and employment, for allocation to the division of employment and training, for

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regional workforce center outreach, for the fiscal year beginning July 1, 2009, the sum of five hundred thousand dollars (\$500,000). This amount shall remain available until June 30, 2012.

(3) In addition to any other appropriation, there is hereby appropriated, out of the Colorado unemployment insurance trust fund, created in section 8-77-102 (4), Colorado revised statutes, from moneys distributed in accordance with Section 903 (g) of the federal Social Security Act, not otherwise appropriated, to the department of labor and employment, for allocation to the division of employment and training, for the extended benefits program, for the fiscal year beginning July 1, 2009, the sum of one million fifty-five thousand three hundred ninety-two dollars (\$1,055,392) federal funds, and 6.2 FTE.

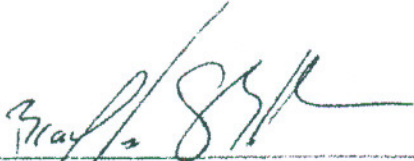
SECTION 11. Effective date. This act shall take effect July 1, 2009.

SECTION 12. Safety clause. The general assembly hereby finds,

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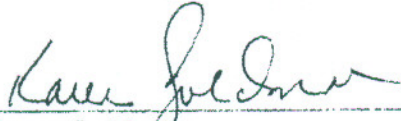
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



Brandon C. Shaffer
PRESIDENT OF
THE SENATE



Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



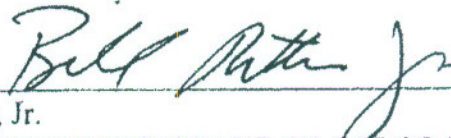
Karen Goldman
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED

June 2, 2009 at 5:41 pm.



Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

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CODE OF COLORADO REGULATIONS

2.2 BENEFIT RIGHTS OF PART-TIME WORKERS

2.2.1 Statutory References: 8-73-103, 8-73-104 (1), 8-73-105, 8-73-106 (1), and 8-73-107, C.R.S.

2.2.2 Eligibility. An unemployed part-time worker as defined in 8-73-105 (1), C.R.S., who worked part-time for the majority of weeks of work in his or her base period for one or more employers and whose availability is restricted to part-time work shall be eligible for benefits pursuant to this section.

2.2.3 Able, Available, and Actively Seeking Work. Any unemployed part-time worker shall be deemed to have met the requirements of 8-73-107 (1)(c) and (g), C.R.S., if:

- .1 Said worker is able to work, available for work, and actively seeking his or her customary part-time work or other part-time work for which he or she is qualified; and
- .2 Such part-time work exists in the labor-market area.

2.2.4 Totally Unemployed Part-Time Seasonal Worker. Benefit rights of an unemployed part-time worker who is also a seasonal worker shall be determined pursuant to 8-73-104 (1), C.R.S.

2.2.5 Partially Unemployed Part-Time Worker. Benefit rights of partially unemployed part-time workers who meet the requirements of regulation 2.2.2 and who receive a reduction in customary work hours shall be determined in accordance with 8-73-103, C.R.S.

2.2.6 Regular Part-Time Worker. Regular part-time employment is defined to be that part-time base-period employment from which a claimant has not separated at the time of filing a valid initial claim and that was present with other full-time or part-time base-period employment. Benefits are not payable with respect to wages from regular part-time employment until a claimant becomes separated from such employment and then only for those weeks occurring after said separation.