

received 7/14/10

PO Box 995
1550 Gadsden Street
Columbia, SC 29202
www.dew.sc.gov



Mark Sanford
Governor

John L. Finan
Executive Director

July 12, 2010

Ms. Gay Gilbert, Administrator
Office of Workforce Security
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue NW Room S-4231
Washington, DC 20210

Via Email to Gilbert.Gay@dol.gov
cc: Johnston.Robert@dol.gov
Massej.Steve@dol.gov
Milhollin.Dianna@dol.gov

RE: STATE OF SOUTH CAROLINA APPLICATION FOR 2010 UI MODERNIZATION INCENTIVE FUNDS

Dear Ms. Gilbert:

Please consider and approve the following Application and request from the State of South Carolina for UI Modernization Incentive Payments under Section 2003 of the American Recovery and Reinvestment Act of 2009 (the Act):

First one-third of incentive payment – 42 U.S.C. 1103 (f) (2) – Alternative Base Period

- A. The State of South Carolina applies for the first one-third of the Unemployment Insurance Modernization Incentive Payment as South Carolina statute, Title 41, §41-27-150 was amended by Senate Bill 391 to comply with requirements of P.L. 111-5, §2003 (a). A copy of Section 8 of Senate Bill 391 is attached to this application as "Appendix A."
- B. The provisions of Senate Bill 391, including the provision concerning the Alternative Base Period, will become effective on January 1, 2011.
- C. The State of South Carolina certifies that the amendment to the Alternative Base Period statute is a permanent amendment that will be recorded in the official statute books. The amendment is not subject to discontinuation under any circumstance other than by repeal of the Legislature.
- D. South Carolina is receiving Title XII trust fund advances. As a result, the entire incentive payment will be used for the payment of state unemployment insurance benefits.

The second two-thirds of the Incentive Payment-42 U.S.C. 1103 (f)(3)(A) and (B)-Part-Time Work and Compelling Family Reasons

- A. The State of South Carolina applies for the second two-thirds of the Unemployment Insurance Modernization Incentive Payment because its statutes have been amended to include the Part-
- B. Time Work and Compelling Family Reasons options in compliance with the requirements of §2003(a) of P.L. 111-5.
- C. A new law was added to South Carolina Statutes, Title 41 by Senate Bill 391 Section 7 to comply with requirements of P.L. 111-5, §2003 (a), amending 42 U.S.C. §1103 (f)(3)(A). This new law will allow individuals who worked part-time for the majority of the weeks in the individual's base period to meet the individual's work search requirement by seeking only part-time work. A copy of the relevant section of Senate Bill 391 is attached to this Application as "Appendix B."
- D. A new law was created in South Carolina Statutes, Title 41 by Senate Bill 391 Section 10 to comply with requirements of P.L. 111-5, §2003 (a), amending 42 U.S.C. §1103 (f)(3)(A). This new law provides that individuals who separated from employment due to compelling family reasons will be eligible to receive unemployment benefits. A copy of the relevant section of Senate Bill 391 is attached to this Application as "Appendix C."
- E. "Appendix D" contains, a copy of Procedure Transmittal Letter-1253 clarifying the agency's official definition of illness and disability.
- F. In regard to compelling family circumstances involving domestic violence provided for by the law in South Carolina Statutes, Title 40, §41-35-125 (A)(1), we certify that the new amendments did not result in any narrowing of access to unemployment compensation for victims of domestic violence or sexual assault.
- G. In regard to compelling family circumstances involving the relocation of a spouse. The state Statute Title 41, §41-35-125(B)(1)(c)(iii) will be interpreted liberally and not limit benefits to solely "involuntary transfers." A copy of Procedure Transmittal Letter-1254 clarifying the agency's official position on this section of the law is included as "Appendix E."
- H. The provisions of Senate Bill 391, including the provisions concerning part-time work and compelling family reasons, will become effective on January 1, 2011.
- I. The State of South Carolina certifies that the application of our misconduct provisions will not act as a denial for persons qualifying for unemployment benefits due to compelling family reasons. South Carolina statute 41-35-120 provides that an individual shall be disqualified for benefits if he or she was discharged for misconduct connected with the last employment. Misconduct requires "willful neglect of duty" on the part of the claimant. If a separation occurs for compelling family reasons, the willful intent required for misconduct will not be present. A copy of the misconduct statute can be found in "Appendix F."
- J. The State of South Carolina certifies that the amendment and new law set out above concerning part-time work and compelling family reasons are permanent and the amendment and new law will be recorded in the official statute books. The amendment and new law are not subject to discontinuation under any circumstance other than by repeal of the Legislature.
- K. South Carolina is receiving Title XII trust fund advances. As a result, the entire incentive payment will be used for the payment of state unemployment insurance benefits.

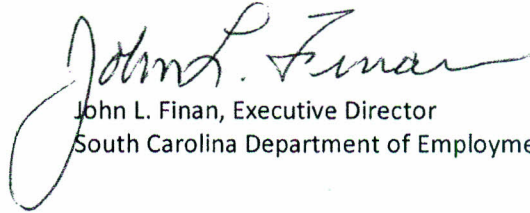
Gay Gilbert

Re: UI Modernization Application

Certification of good faith

It is hereby certified that this Application for the Unemployment Insurance Modernization Incentive Payments is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based.

Sincerely,

A handwritten signature in cursive script that reads "John L. Finan". The signature is written in black ink and is positioned above the printed name and title.

John L. Finan, Executive Director
South Carolina Department of Employment and Workforce

Attachments

APPENDIX A

S*0391(Rat #0250, Act #0234 of 2010) General Bill, By Ryberg, McConnell, Verdin, Bryant, Cleary, Campsen, Shoopman, Campbell, Rose, Davis, Bright, S. Martin and Sheheen

Similar(S 1353)

AN ACT TO AMEND CHAPTER 31, TITLE 41, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONTRIBUTIONS AND PAYMENTS TO THE UNEMPLOYMENT TRUST FUND, SO AS TO PROVIDE CERTAIN DEFINITIONS, TO CHANGE THE EMPLOYER'S MINIMUM BASE RATE, TO REVISE THE METHOD OF DETERMINING THE BASE RATE OF AN EMPLOYER ELIGIBLE FOR A RATE COMPUTATION, TO IMPOSE CERTAIN SURCHARGES ON EMPLOYERS TO PAY OUTSTANDING DEBT OF UNEMPLOYMENT INSURANCE TRUST FUND IN YEARS WHEN THE FUND IS INSOLVENT, TO DELETE LANGUAGE PROVIDING A STATEWIDE RESERVE RATIO, TO DELETE THE DEFINITION OF A NONPROFIT ORGANIZATION, TO MAKE CONFORMING CHANGES REFLECTING THE CREATION OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, AND TO CORRECT ARCANE LANGUAGE, AMONG OTHER THINGS; TO AMEND SECTION 41-27-310, RELATING TO THE DEFINITION OF THE TERM "INSURED WORKER", SO AS TO INCREASE THE THRESHOLD AMOUNT OF EARNINGS A PERSON MUST HAVE TO QUALIFY AS AN INSURED WORKER, AND TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL FOUND QUALIFIED TO RECEIVE UNEMPLOYMENT BENEFITS PRIOR TO THE SECTION'S ENACTMENT; TO AMEND SECTION 41-27-380, AS AMENDED, RELATING TO THE DEFINITION OF THE TERM "WAGES", SO AS TO PROVIDE AN EXCEPTION TO THE TERM; TO AMEND SECTION 41-35-40, RELATING TO WEEKLY BENEFITS, SO AS TO INCREASE THE MINIMUM WEEKLY BENEFIT AMOUNT; BY ADDING SECTION 41-27-760 SO AS TO PROVIDE THESE CANDIDATES MAY NOT DIRECTLY OR INDIRECTLY SEEK THE PLEDGE OF A MEMBER OF THE GENERAL ASSEMBLY FOR THEIR ELECTION TO THE PANEL, AND TO PROVIDE PENALTIES FOR A VIOLATION, AMONG OTHER THINGS; TO AMEND SECTION 41-29-40, AS AMENDED, RELATING TO UNEMPLOYMENT COMPENSATION AND EMPLOYMENT SERVICE DIVISIONS OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, SO AS TO DELETE LANGUAGE REQUIRING DIRECTORS APPOINTED TO THESE DIVISIONS MUST BE MADE ON A NONPARTISAN MERIT BASIS IN ACCORDANCE WITH CERTAIN STATUTORY PROVISIONS; BY ADDING SECTION 41-27-525 SO AS TO PROVIDE IF THE MAJORITY OF WEEKS IN A PERSON'S BASE PERIOD INCLUDES PART-TIME WORK, HE MAY NOT BE DENIED UNEMPLOYMENT BENEFITS UNDER A PROVISION RELATED TO AVAILABILITY OF WORK, ACTIVE SEARCH FOR WORK, OR FAILURE TO ACCEPT WORK SOLELY BECAUSE HE ONLY SEEKS PART-TIME WORK, AND TO DEFINE THE TERM "SEEKING ONLY PART-TIME WORK"; TO AMEND SECTION 41-27-150, AS AMENDED, RELATING TO THE DEFINITION OF THE TERM "BASE PERIOD", SO AS TO DEFINE THE TERM "ALTERNATE BASE PERIOD", AND TO PROVIDE WAGES THAT FALL WITHIN THE BASE PERIOD FOR A CLAIM ESTABLISHED UNDER THIS SECTION MUST NOT BE AVAILABLE FOR USE IN QUALIFYING FOR A SUBSEQUENT BENEFIT YEAR; TO AMEND SECTION 41-29-300, RELATING TO THE CREATION AND COMPOSITION OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, SO AS TO IMPOSE A MANDATORY RETIREMENT AGE ON MEMBERS OF THE APPELLATE PANEL; AND TO AMEND SECTION 41-35-125, AS AMENDED, SO AS TO PROVIDE CERTAIN DEFINITIONS, AND TO PROVIDE AN INDIVIDUAL IS ELIGIBLE FOR WAITING WEEK CREDIT AND UNEMPLOYMENT COMPENSATION IF THE DEPARTMENT FINDS HE WAS SEPARATED FROM EMPLOYMENT DUE TO COMPELLING FAMILY CIRCUMSTANCES. - ratified title

02/10/09 Senate Introduced and read first time SJ-3
02/10/09 Senate Referred to Committee on Labor, Commerce and Industry SJ-3
04/14/09 Senate Committee report: Majority favorable with amend., minority unfavorable Labor, Commerce and Industry SJ-31
01/20/10 Senate Minority Report Removed SJ-10

01/20/10 Senate Motion For Special Order Failed SJ-12
01/26/10 Senate Special order, set for January 26, 2010 SJ-16
02/10/10 Senate Committee Amendment Amended SJ-23
02/10/10 Senate Debate interrupted SJ-23
02/11/10 Senate Committee Amendment Amended and Adopted SJ-18
02/11/10 Senate Debate interrupted SJ-18
02/16/10 Scrivener's error corrected
02/16/10 Senate Amended SJ-13
02/16/10 Senate Debate interrupted SJ-13
02/17/10 Scrivener's error corrected
02/17/10 Senate Amended SJ-45
02/17/10 Senate Debate interrupted SJ-45
02/18/10 Senate Amended SJ-19
02/18/10 Senate Debate interrupted SJ-19
02/19/10 Scrivener's error corrected
02/23/10 Senate Amended SJ-21
02/23/10 Senate Debate interrupted SJ-21
02/24/10 Senate Amended SJ-45
02/24/10 Senate Read second time SJ-45
02/25/10 Senate Amended SJ-69
02/25/10 Senate Read third time and sent to House SJ-69
03/02/10 House Introduced and read first time HJ-9
03/02/10 House Referred to Committee on Ways and Means HJ-11
03/10/10 House Recalled from Committee on Ways and Means HJ-75
03/11/10 House Debate adjourned until Monday, March 15, 2010 HJ-14
03/23/10 House Debate adjourned until Wednesday, March 24, 2010 HJ-48
03/24/10 House Debate adjourned until Tuesday, April 13, 2010 HJ-13
03/25/10 House Debate adjourned until Tuesday, March 30, 2010 HJ-32
04/13/10 House Debate adjourned HJ-46
04/14/10 House Recommitted to Committee on Ways and Means HJ-28
04/20/10 House Committee report: Favorable with amendment Ways
and Means HJ-42
04/22/10 House Amended HJ-76
04/22/10 House Read second time HJ-76
04/22/10 House Unanimous consent for third reading on next
legislative day HJ-80
04/23/10 House Read third time and returned to Senate with
amendments HJ-3
05/12/10 Senate House amendment amended SJ-41
05/12/10 Senate Returned to House with amendments SJ-41
05/20/10 House Concurred in Senate amendment and enrolled HJ-50
05/20/10 House Roll call Yeas-96 Nays-1 HJ-50
06/01/10 Ratified R 250
06/03/10 Signed By Governor
06/21/10 Effective date 01/01/11
06/23/10 Act No. 234

S391 SECTION 8

SECTION 8. Section 41-27-150, as last amended by an act bearing ratification number 159 of 2010, is further amended to read:

“Section 41-27-150. (A) Except as provided in subsection (B), ‘base period’ means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year. However, in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the department pursuant to the provisions of Section 41-29-140(2), the base period is that applicable provided by the law of the paying state.

(B)(1) ‘Alternate base period’ means for benefits years effective after May 31, 2010, if an individual does not have sufficient wages in the base period defined in subsection (A) to qualify for benefits, his base period must be the four calendar quarters completed most recently before the individual’s benefit year if this period qualifies him for benefits, provided these quarters were not previously used to establish a prior valid benefit year.

APPENDIX B

S391 SECTION 7

SECTION 7. Article 5, Chapter 27, Title 41 of the 1976 Code is amended by adding:

“Section 41-27-525. 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. The phrase ‘seeking only part-time work’, as used in this subsection, means the individual claiming unemployment benefits is available for a number of hours per week that are comparable to the individual’s part-time work experience in the base period.”

APPENDIX C

S391 SECTION 10

SECTION 10. Section 41-35-125 of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

“Section 41-35-125. (A)(1) Notwithstanding the provisions of Section 41-35-120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse and:

- ~~(1)~~(a) reasonably fears future domestic abuse at or en route to the workplace;
- ~~(2)~~(b) needs to relocate to avoid future domestic abuse; or
- ~~(3)~~(c) reasonably believes that leaving work is necessary for his safety or the safety of his family.

~~(B)~~(2) When determining if an individual has experienced domestic abuse for the purpose of receiving unemployment compensation, the department must require him to provide documentation of domestic abuse including, but not limited to, police or court records or other documentation of abuse from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the individual has sought assistance.

~~(C)~~(3) Documentation or evidence of domestic abuse acquired by the department pursuant to this section must be kept confidential unless consent for disclosure is given, in writing, by the individual.

(B)(1) For the purposes of this subsection:

- (a) ‘Immediate family member’ means a claimant’s spouse, parents, or minor children.
- (b) ‘Illness’ means a verified disability that necessitates the care of the disabled person for a period of time that exceeds the amount of time the employer will provide paid or unpaid leave. Disability, includes, but is not limited to mental and physical disabilities, permanent and temporary disabilities, and partial and total disabilities.
- (c) ‘Compelling family circumstances’ means:
 - (i) that a claimant was separated from employment with the employer because of the illness or disability of the claimant and, based upon available information, the department finds that it was medically necessary for the claimant to stop working or change occupations;
 - (ii) the claimant was separated from work due to the illness or disability of an immediate family member; and

(iii) the claimant's spouse was transferred or employed in another city or state, the family is required to move to the location of that job, the location is outside the commuting distance of the claimants previous employment, and the claimant separates from employment in order to move to the new location with his spouse.

(2) Notwithstanding the provisions of Section 41-35-120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual was separated from employment due to compelling family circumstances."

APPENDIX D

PO Box 995
1550 Gadsden Street
Columbia, SC 29202
www.dew.sc.gov



Mark Sanford
Governor

John L. Finan
Executive Director

July 2, 2010

PROCEDURE TRANSMITTAL LETTER NUMBER- 1253

TO: ALL DEPARTMENT HEADS, AREA DIRECTORS AND CLAIM SUPERVISORS

FROM: UI TECHNICAL SERVICES

SUBJECT: LEAVING WORK DUE TO ILLNESS OR DISABILITY

The purpose of this PTL is to clarify agency policy in the application of Section 41-35-125 (B) (1) which becomes effective on January 1, 2011.

An "illness" means a verified medical disease/condition of the claimant or an immediate family member that requires the claimant's absence from work for a period of time that exceeds the time the employer will allow paid or unpaid leave. An illness need not be characterized as a disability to be considered under this section.

Disability includes, but is not limited to, mental and physical disabilities, permanent and temporary disabilities, and partial and total disabilities. To be considered, the disability must exceed the duration that the employer will allow paid or unpaid leave, or be of such a nature that it was medically necessary for the claimant to stop working or change occupations.

Please note that this provision of the law does not become effective until January 1, 2011 and no action is required in this regard until that time.

Questions should be directed to UI Technical Services at (803) 737-3071.

dln

UI-8

Appendix E

PO Box 995
1550 Gadsden Street
Columbia, SC 29202
www.dew.sc.gov



Mark Sanford
Governor

John L. Finan
Executive Director

July 8, 2010

PROCEDURE TRANSMITTAL LETTER NUMBER- 1254

TO: ALL DEPARTMENT HEADS, AREA DIRECTORS AND CLAIM SUPERVISORS

FROM: UI TECHNICAL SERVICES

SUBJECT: LEAVING WORK TO RELOCATE WITH A SPOUSE WHO TRANSFERS OR OBTAINS EMPLOYMENT OUTSIDE THE LOCAL COMMUTING AREA

The purpose of this PTL is to clarify agency policy in the application of Section 41-35-125 (B) (1) (iii) which becomes effective on January 1, 2011.

An individual may be eligible for unemployment benefits if he/she voluntarily quits employment to relocate with a spouse who is transferred with an existing employer to a location outside of a reasonable commuting area, OR whose spouse accepts new employment at a location that is outside of a reasonable commuting area.

Please note this provision of the law does not become effective until January 1, 2011, and no action is required until that time.

Questions should be directed to UI Technical Services at (803) 737-3071.

dln

UI-8

APPENDIX F

41-35-120 Eligibility and Misconduct

"Section 41-35-120. An insured worker is ineligible for benefits for:

(1) leaving work voluntarily. If the department finds he left voluntarily, without good cause, his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim.

(2) Discharge for cause connected with the employment. If the department finds that he has been discharged for cause connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request, and continuing not less than five nor more than the next twenty-six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker's benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification. The ineligibility period must be determined by the department in each case according to the seriousness of the cause for discharge. A charge of discharge for cause connected with the employment may not be made for failure to meet production requirements unless the failure is occasioned by wilful failure or neglect of duty. 'Cause connected with the employment' as used in this item requires more than a failure in good performance of the employee as the result of inability or incapacity.

(3)(a) Discharge for illegal drug use, and is ineligible for benefits beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim if the:

(i) company has communicated a policy prohibiting the illegal use of drugs, the violation of which may result in termination; and

(ii) insured worker fails or refuses to provide a specimen pursuant to a request from the employer, or otherwise fails or refuses to cooperate by providing an adulterated specimen; or

(iii) insured worker provides a blood, hair, or urine specimen during a drug test administered on behalf of the employer, which tests positive for illegal drugs or legal drugs used unlawfully, provided:

(A) the sample was collected and labeled by a licensed health care professional or another individual authorized to collect and label test samples by federal or state law, including law enforcement personnel; and

(B) the test was performed by a laboratory certified by the National Institute on Drug Abuse, the College of American Pathologists or the State Law Enforcement Division; and

(C) an initial positive test was confirmed on the specimen using the gas chromatography/mass spectrometry method, or an equivalent or a more accurate scientifically accepted method approved by the National Institute on Drug Abuse.

(iv) for purposes of this item, 'unlawfully' means without a prescription.

(b) If an insured worker makes an admission pursuant to the employer's policy, which provides that voluntary admissions made before the employer's request to the employee to submit to testing may protect an employee from immediate termination, then the admission is inadmissible for purposes of this section as long as the:

(i) employer has communicated a written policy, which provides protection from immediate termination for employees who voluntarily admit prohibited drug use before the employer's request to submit to a test; and

(ii) employee makes the admission specifically pursuant to the employer's policy.

(c) Information, interviews, reports, and drug-test results, written or otherwise, received by an employer through a drug-testing program may be used or received in evidence in proceedings conducted pursuant to the provisions of this title for the purposes of determining eligibility for unemployment compensation, including administrative or judicial appeal.

(4) Discharge for gross misconduct, and is ineligible for benefits beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim if he is discharged due to:

(i) wilful or reckless employee damage to employer property that results in damage of more than fifty dollars;

(ii) employee consumption of alcohol or being under the influence of alcohol on employer property in violation of a written company policy restricting or prohibiting consumption of alcohol;

(iii) employee theft of items valued at more than fifty dollars;

(iv) failure to comply with applicable state or federal drug and alcohol testing and use regulations including, but not limited to, 49 C.F.R. part 40 and part 382 of the federal motor carrier safety regulations, while on the job or on duty, and regulations applicable for employees performing transportation and other safety sensitive job functions as defined by the federal government;

(v) employee committing criminal assault or battery of another employee or a customer;

(vi) employee committing criminal abuse of patient or child in his professional care;

(vii) employee insubordination, which is defined as willful failure to comply with a lawful, reasonable order of a supervisor directly related to the employee's employment as described in an applicable written job description; or

(viii) employee wilful neglect of duty directly related to the employee's employment as described in an applicable written job description.

(5) failure to accept work.

(a) If the department finds he has failed, without good cause;

(i)(A) either to apply for available suitable work, when so directed by the employment office or the department;

(B) to accept available suitable work when offered to him by the employment office or an employer; or

(C) to return to his customary self-employment, if any, when so directed by the department, the ineligibility begins with the week the failure occurred and continues until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined in Chapters 27 through 41 of this title and earned wages for services equal to at least eight times his weekly benefit amount of his claim.

(b) In determining whether work is suitable for an individual, the department must consider, based on a standard of reasonableness as it relates to the particular individual concerned, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(c) Notwithstanding another provision of Chapters 27 through 41 of this title, work is not considered suitable and benefits may not be denied under these chapters to an otherwise eligible individual for refusing to accept new work under any of the following conditions;

(i) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) Notwithstanding another provision of Chapters 27 through 41 of this title, an otherwise eligible individual may not be denied a benefit for a week for failure to apply for, or refusal to accept, suitable work because he is in training with the approval of the department.

(e) Notwithstanding another provision of this chapter, an otherwise eligible individual may not be denied a benefit for a week because he is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter training, if the work left is not suitable employment, or because of the application to a week in training of provisions in this law or an applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subitem, 'suitable employment' means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974, and wages for the work at not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) labor dispute. For a week in which the department finds that his total or partial unemployment is directly due to a labor dispute in active progress in the factory, establishment, or other premises at which he was last employed. This paragraph does not apply if it is shown to the ~~unemployed~~ ~~by reason of the dispute,~~ there were members employed at the premises at which the dispute exists, any of whom are participating in or directly interested in the dispute. If separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each department for the purpose of this item is considered to be a separate factory, establishment, or other premises.

(7) receiving benefits elsewhere. For a week in which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that he is not entitled to unemployment benefits, this disqualification does not apply.

(8) voluntary retirement. If the department finds that he voluntarily retired from his most recent work with the ineligibility beginning with the effective date of his claim and continuing for the duration of his unemployment and until the individual submits satisfactory evidence of having had new employment and of having earned wages of not less than eight times his weekly benefit amount as defined in Section 41-35-40. For the purpose of this section, 'most recent work' means the work from which the individual retired regardless of any work subsequent to his retirement in which he earned less than eight times his weekly benefit amount."