

**Technical Amendment**  
**November 10, 2022**  
**EDUCATION AND LABOR CABINET**  
**(Technical Amendment)**

**787 KAR 1:310. Claimant profiling.**

RELATES TO: KRS 194.030(9), 341.350(3), 42 U.S.C. 503(a)(10), (j)

STATUTORY AUTHORITY: KRS 336.015, 336.050, 341.115, 341.350(3)(b), 2021 Ky Acts ch. 169 Part 1(I)(7), 42 U.S.C. 503(a)(10), (j)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulation necessary to administer KRS Chapter 341. 42 U.S.C. 503(a)(10) and (j) require states to establish profiling systems to identify unemployment claimants who are likely to exhaust regular benefits for referral to reemployment services, and to hold claimants ineligible to receive unemployment benefits if they fail to participate in reemployment services after having been so identified. KRS 341.350(3)(b) requires the secretary to establish a profiling system. This administrative regulation establishes conditions, consistent with the provisions of 42 U.S.C. 503(a)(10) and (j), under which a claimant shall participate in reemployment services as a condition of receiving benefits.

Section 1. Definition. "Profiling" means a method by which the secretary shall determine if an unemployment claimant is likely to exhaust benefits.

Section 2. Profiling System.

(1) Except as established in subsection (2) of this section, all unemployment claimants shall be subject to profiling as a condition of receiving benefits.

(2) A claimant shall be exempted from profiling if the claimant:

(a) Is applying for extended benefits or special federal program benefits including Trade Adjustment Assistance and Disaster Unemployment Assistance;

(b) Is classified as a "Group B" claimant as established in 787 KAR 1:090, Section 1(2)(b);

(c) Is in approved training as established in KRS 341.350(7);

(d) Has weekly pension deductions in excess of the benefit amount; or

(e) Is receiving reemployment services through a union hiring hall.

(3) The secretary shall utilize a statistical model of worker profiling as the basis for the identification of claimants for referral for reemployment services. The profiling system shall identify a claimant as unlikely to return to his previous industry or occupation through the consideration of employment related variables. These variables shall not include the claimant's age, gender, race, ethnicity, or national origin.

(4) A claimant shall be profiled if issued a first benefit payment, including a zero amount due to excessive earnings or other reason.

(5) A claimant identified by the profiling system as likely to exhaust benefits shall be referred for reemployment services from the Office of Unemployment Insurance based on the availability of services. A claimant who is not referred for services within four (4) weeks after identification by the profiling system shall not be referred and shall be considered to have satisfied the requirements of KRS 341.350(3)(b) for the receipt of benefits.

Section 3. Eligible dislocated worker. A claimant determined to be an "eligible dislocated worker" under the Workforce Innovation and Opportunity Act, 29 U.S.C. 3102 et seq., may participate in the profiling system.

(22 Ky.R. 495; eff. 11-6-1995; 33 Ky.R. 2201; 3192; eff. 5-4-2007; 48 Ky.R. 600; 1539; eff. 2-1-2022; TAm eff. 11-10-2022.)

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