

EDUCATION AND LABOR CABINET
Office of Unemployment Insurance
(Amended at ARRS Committee)

787 KAR 1:090. Unemployed worker's reporting requirements.

RELATES TO: KRS 341.350, 341.360, 341.370, 341.380

STATUTORY AUTHORITY: KRS 336.015, 336.050, 341.115(1), 341.350(11)~~[2021 Ky Acts ch. 169 Part 1(I)(7)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of KRS Chapter 341. KRS 341.350(11) requires the secretary to promulgate administrative regulations related to work search activities required for benefit eligibility. This administrative regulation establishes the registration and reporting requirements that an unemployed worker is required to meet to draw benefits, the date when a claim shall be valid, the length of time a claim may be backdated, the procedures for electronic, telephone, and mail claims, and the requirement for random audits.

Section 1. Registration for Work.

(1) An unemployed worker shall be registered for work with a state employment service before he or she is eligible to receive benefits. A registration shall be considered filed if the unemployed worker completes the registration process.

(2) When an unemployed worker completes an initial application for benefits or reopens a claim, he or she shall be assigned a group classification code A or B based upon his or her reemployment prospects. The classification codes described below are solely related to reemployment prospects and not to any classification codes used to identify a claimant's duration of benefits, as detailed in KRS 341.385.

(a) Group A shall consist of any worker who is unemployed and is not subject to definite recall within a period of sixteen (16)~~[twelve (12)]~~ weeks from the date of filing of the initial or reopened claim.

(b) Group B shall include any worker who is:

1. Unemployed and has definite return prospects with his or her last employer within a period of sixteen (16)~~[twelve (12)]~~ weeks from the date of filing of the initial or reopened claim;
2. Unemployed because of a labor dispute in the establishment where he or she has been employed; or
3. A member of a union which shall be responsible for securing future employment.

(3) During any benefit year, an unemployed worker shall be assigned a different group classification code if review of his or her reemployment prospects reveals that a different classification is appropriate.

(4) The completion of an initial application for benefits shall serve as work registration for any group "B" unemployed worker.

Section 2. Initial or Reopened Claims for Benefits.

(1) ~~In order~~ For an unemployed worker to file an initial or reopened claim for benefits, he or she shall complete the Initial Claim process by using:

- (a) An internet claim registration through the Web site provided by the agency for that purpose at uiclaimsportal.ky.gov;
- (b) A telephone claim registration through the call center provided by the agency for that purpose; or
- (c) An in person claim registration by reporting to a state employment service office that provides unemployment insurance assistance.

(2) If any issues regarding the unemployed worker's eligibility as provided by KRS 341.350 or a potentially disqualifying circumstance as provided by KRS 341.360 or 341.370 are detected, a fact finding investigation shall be conducted during which the unemployed worker shall:

- (a) Provide picture identification and valid proof of the worker's Social Security number from the Social Security Administration; and
- (b) Present all facts in support of the application.

(3) The initial or reopened claim shall be dated as of the first day of the week in which the unemployed worker completes the procedure established in subsection (1) of this section.

(4) Upon the presentation by the unemployed worker of reasons found to constitute good cause for failure to file at an earlier date, the secretary shall backdate the initial or reopened claim to the first day of the week in which the worker became unemployed, or the second calendar week preceding the date the worker filed, whichever is later. Examples of good cause may include illness, availability issues beyond the claimant's control, or lack of access to internet or phone necessary for claim filing.

(5) An unemployed worker whose unemployment insurance benefit check has been lost or stolen shall notify the office in writing.

Section 3. Claiming Weeks of Benefits.

(1) Once an unemployed worker has filed an initial claim and established a benefit year, the unemployed worker shall claim his or her benefits on a biweekly basis by one (1) of the methods and within the time frames established in subsection (2) of this section.

(a) The unemployed worker shall claim either one (1) or both of the weeks of benefits.

(b) Except as provided in paragraph ~~(e)~~ of this subsection, for every two (2) week period of benefits being claimed following the effective date of the initial or reopened claim, the unemployed worker shall claim his or her benefits during the calendar week following the second week of the period.

(c) For each week an unemployed worker claims benefits, the worker shall certify under penalty of perjury that he or she engaged in at least five (5) work search activities, at least three (3) of which shall consist of submitting an application for employment, or interviewing for employment. ~~Work search activities include any of the following:~~

1. Formally submitting an application for employment online or in person;
2. Interviewing for employment virtually, in person, or online;
3. Job shadowing;
4. Attending a job fair or networking event hosted by state or local government or a business organization;
5. Participating in a job search skills workshop or seminar; ~~or and~~
6. Participating in official Kentucky Career Center or partner programs related to employment or the search for employment.

(d) For each claimed work search activity, the unemployed worker shall ~~must~~ have documentation verifying he or she engaged in the work search activity and shall preserve that documentation for one (1) full year after each weekly claim for benefits was submitted for auditing purposes. All claimed work search activities are subject to random audit by the Office of Unemployment Insurance.

(e) An otherwise eligible worker shall not be denied benefits under KRS 341.350(5), or because of a failure to actively seek work under paragraph (c) of this subsection, or disqualified under KRS 341.370(1)(a) under the following circumstances:

1. For any week a claimant provides verifiable enrollment in an approved job training or certification program listed on the current eligible training provider list,

which can be found on the Kentucky Career Center website under the ~~f--f~~ Training – Providers ~~f--f~~ tab, and certifies making satisfactory progress in the program; or,

2. If a claimant provides verifiable definite return-to-work or recall-to-work prospects from his or her employer, either by an employer filed mass electronic claim or by submitting a written notice from the employer within a period of sixteen (16) weeks from the date of filing of the initial or reopened claim.

(f) ~~(e)~~ Upon the presentation by the unemployed worker of reasons the secretary finds to be good cause for the failure of the worker to claim his or her benefits during the prescribed week, the secretary shall allow the worker to claim benefits for the two (2) calendar weeks preceding the date on which the worker claimed his or her benefits. In this case the worker shall next be eligible to claim benefits for the two (2) calendar weeks following the weeks of benefits claimed late. Examples of good cause may include illness, availability issues beyond the claimant's control, lack of access to internet or phone necessary for claim filing, or unemployment insurance system outages.

(2) Except as provided in subsection (3) of this section, the unemployed worker shall complete a claim for benefits:

(a) Through the Web site provided by the agency for that purpose at uicclaimsportal.ky.gov, with the claim completed before 7 p.m. Eastern Time on the Friday of the calendar week following the second week of the period claimed; or

(b) By telephone through the interactive voice response system provided by the agency for that purpose, with the claim completed between the hours of 10 a.m. and 9 p.m. Eastern Time on the Sunday, or between the hours of 7 a.m. and 7 p.m. Eastern Time on the Monday through the Friday of the calendar week following the second week of the period claimed.

(3)

(a) The secretary shall direct an unemployed worker to claim benefits by mail if it is not possible for the worker to claim by either option provided in subsection (2) of this section due to:

1. Unavailability of those options for the type of benefits claimed;
2. Unavailability of those options due to technical problems; or
3. A physical or mental condition preventing the worker from using those options.

(b) A continued claim shall cover the week or weeks indicated on the Continued Claim Form.

(c) Any claim filed by mail shall be considered filed on the day it is deposited in the mail and postmarked as established in 787 KAR 1:230, Section 1(2).

(d) The provisions of this administrative regulation governing the dating and backdating of a continued claim shall also apply to a claim filed by mail. ~~If, and unless~~ the claim is not filed within the prescribed time, it shall not be allowed.

Section 4. Employer Filed Claims.

(1) An employer may file a claim on behalf of an unemployed worker if:

- (a) The worker has definite recall rights within four (4) calendar weeks;
- (b) The employer has a workforce of at least 100 workers at the time of the layoff;
- (c) The employer submits the claim information in the required electronic format using the Directions for Submitting an Employer Mass Electronic Claim (E-claim) File and the E-claim – Template; and
- (d) Prior to the first time an employer files a claim on behalf of a worker, the employer submits a test sample of claim information and receives confirmation from the Office of Unemployment Insurance that the information is in the required format prior to the date the period of unemployment will begin.

(2) The effective date of an employer filed claim shall be the first day of the week in which the period of unemployment began.

(3) An unemployed worker who does not file a continued claim for benefits established under an employer filed claim may file a new initial claim within the period of one (1) year from the effective date of the employer filed claim.

Section 5. Eligibility Review. The secretary may require an unemployed worker claiming benefits to report for the purpose of continued benefit eligibility review as a condition for payment of benefits. The requirement and interval for eligibility review shall be determined by:

- (1) The worker's classification as established in Section 1(2) of this administrative regulation;
- (2) The worker's individual employment and earning history; and
- (3) The local labor market.

Section 6.

(1) The secretary shall notify an unemployed worker if the secretary determines that the unemployed worker failed to file a claim for benefits or register for work within the specified time due to:

- (a) The employer's failure to comply with 787 KAR Chapter 1;
- (b) Coercion or intimidation exercised by the employer to prevent the prompt filing of a claim; or
- (c) Failure by the Office of Unemployment Insurance personnel to discharge necessary responsibilities.

(2)

(a) Except as provided in paragraph (b) of this subsection, an unemployed worker shall have fourteen (14) days after receipt of the notification required by subsection (1) of this section from the secretary within which to file a claim.

(b) A claim shall not be filed later than thirteen (13) weeks subsequent to the end of the actual or potential benefit year involved.

Section 7. The secretary shall conduct random audits of claims. Each random audit shall include one (1) or more of the eligibility requirements provided by KRS 341.350.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Directions for Submitting an Employer Mass Electronic Claim (E-claim) File, 03/20;
- (b) E-Claim – Template, 03/20; and
- (c) "Continued Claim Form", Rev. 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Director of the Office of Unemployment Insurance, Mayo-Underwood Building, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available on the office's Web site at <https://kcc.ky.gov/Pages/Reports-and-forms.aspx>.

(22 Ky.R. 463; Am. 909; eff. 11-6-1995; 30 Ky.R. 702; 1244; eff. 12-5-2003; 33 Ky.R. 2177; 3180; eff. 5-4-2007; 34 Ky.R. 1205; 1736; eff. 2-1-2008; 35 Ky.R. 1587; 2058; eff. 4-3-2009; 37 Ky.R. 814; 1196; eff. 12-3-2010; 37 Ky.R. 2996; 38 Ky.R. 595; eff. 10-7-2011; 40 Ky.R. 442; 809; eff. 10-23-2013; 48 Ky.R. 584, 1532; eff. 2-1-2022; TAm eff. 11-10-2022; 49 Ky.R. 1672, 2096; eff. 8-1-2023.)

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