



NOTICE OF PUBLIC HEARING

Pursuant to *Neb. Rev. Stat.* §84-907, notice is given of a public hearing to be held before the Nebraska Department of Labor (NDOL) on Wednesday, September 16, 2020 at 9:00 a.m. at the Nebraska Department of Labor, 500 South 16th Street, 2nd Floor Conference Room, Lincoln, Nebraska on September 16, 2020 at 9:00 a.m.

The NDOL will receive testimony and evidence concerning the adoption of proposed amendments regarding unemployment insurance benefits:

- 219 NAC 2 – Claims for Benefits
- 219 NAC 4 – Claimant’s Availability / Work Search Requirements
- 219 NAC 20 – Extended Benefits

219 NAC 2 amends the due date for filing a weekly claim for unemployment insurance benefits from Friday to Saturday following the most recent week ending date. Removes unnecessary language.

219 NAC 4 makes permanent the emergency regulation for work search requirements for claiming unemployment benefits that were instituted during the COVID-19 pandemic. Clarifies and expands the work search requirements for unemployment insurance benefit eligibility.

219 NAC 20 makes permanent the emergency regulation definition of work search requirements for extended benefits that were instituted during the COVID-19 pandemic.

A draft of the Regulations and their Fiscal Impact Statements may be obtained at the office of the Secretary of State, Regulations Division, Room 343, State Capitol, Lincoln, Nebraska 68509, telephone number (402) 471-2385, or by contacting the NDOL at (402) 471-9912. Copies will also be available at the public hearing.

Interested persons may attend and testify at the hearing. Written comments may be submitted to the NDOL, Office of Legal Counsel, and P.O. Box 94600, Lincoln, NE 68509-4600 up to three days prior to the date of this hearing.

If auxiliary aids or reasonable accommodations are needed for attendance at this hearing, please call (402) 471-9912.

JOHN H. ALBIN
Nebraska Commissioner of Labor

FISCAL IMPACT STATEMENT

Agency:	Nebraska Department of Labor		
Title:	219	Prepared by:	Katie S. Thurber
Chapter:	4	Date prepared:	July 28, 2020
Subject:	Claimant's Availability / Work Search Requirements	Telephone:	402.471.9912

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Increased Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decreased Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increased Revenue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decreased Revenue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indeterminable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Provide an Estimated Cost & Description of Impact:

State Agency: n/a

Political Subdivision: n/a

Regulated Public: n/a

If indeterminable, explain why: n/a

NEBRASKA ADMINISTRATIVE CODE

LAST UPDATE: October 13, 2015 (July 12, 2020 via emergency)

TITLE 219 - DEPARTMENT OF LABOR

CHAPTER 4 - CLAIMANT'S AVAILABILITY / WORK SEARCH REQUIREMENTS

001. This chapter is adopted pursuant to *Neb. Rev. Stat.* §§48-607, 48-627, 48-628.03 and ~~48-628~~ 48-628.15.
002. In order to establish his or her availability for work in the job market to which he or she is attached, a claimant shall register for work and engage in an active work search.
003. A. A claimant attached to a Nebraska job market shall register for work with the Nebraska Department of Labor's division of employment services at an employment services office established in accordance with *Neb. Rev. Stat.* §48-662 or the Nebraska Department of Labor's web application for Reemployment and Benefit services. Claimants not attached to a Nebraska job market shall register with the employment service office of in the state of their residence.
- B. 1. In order to complete his or her registration for work, a claimant attached to a Nebraska job market shall be required to create an active, online, and searchable resume in the Nebraska Department of Labor's web application for Reemployment and Benefit services in order to initially apply for benefits.
2. In order to remain registered for work and eligible for benefits, any claimant for whom the work search requirement has not been waived pursuant to 219 NAC 4(007) shall continuously maintain an active, online and searchable resume on the Nebraska Department of Labor's web application for Reemployment and Benefit services.
- ~~3. A claimant's registration for work and resume will be considered inactive after 90 consecutive days of non-use of the Nebraska Department of Labor's web application for Reemployment and Benefit services and the claimant will be determined to not be available for work.~~
004. A. In order for a claimant to be "available for work" within the meaning of *Neb. Rev. Stat.* §48-627(3), a claimant for whom the work search requirement has not been waived pursuant to 219 NAC 4(007) must actively seek work in accordance with the provisions of this Chapter. (See also, 20 C.F.R. § 604.5 and 42 U.S.C.A. 503.)
- B. ~~For benefit years beginning prior to October 1, 2015, a claimant will also be required to make an active and earnest search for work that is reasonably calculated to result in the earliest possible reemployment of the claimant. The search shall include, for each week of benefits at least two contacts with employers in person, by mail, by telephone, or by other electronic media. A claimant shall record each week's work search effort in an electronic web application maintained by the Department of Labor as the Commissioner of Labor shall direct. A claimant shall record work search contacts (a) during the week in which he or she is looking for work, or (b) at the same time he or she claims for benefits for the benefit week for which the work searches were performed. A failure to record the work search effort in the directed manner will be considered a failure to report as directed, and the claimant shall be ineligible for the week in which he or she failed to report.~~
- C. B. ~~For benefit years beginning on or after October 1, 2015, a~~ A claimant, for whom the work search requirement has not been waived pursuant to 219 NAC 4(007), shall be required to

make an active and earnest search for work that is reasonably calculated to result in the earliest possible reemployment of the claimant. An active and earnest search for work shall include ~~five reemployment activities contacts with employers each benefit week, including but not limited to inquiries and applications made in person, by mail, by telephone, or by other electronic media for permanent positions.~~ A claimant attached to a Nebraska job market shall make at least one of the five job contacts with employers each benefit week through the Nebraska Department of Labor's web application for Reemployment and Benefit services. At least two of a claimant's five reemployment activities each benefit week shall be applications for permanent employment. Applications for employment shall be made in a method accepted by the employer.

C. The following items will count as a reemployment activity as used in paragraph 004(B) above:

1. Attending a Nebraska Reemployment Services Session with the Nebraska Department of Labor.
2. Conducting work searches using Internet job banks as well as professional/trade publications (the URL for the site searched and the date the web site was accessed shall be provided to the Department of Labor).
3. Applying to a job posting through the Nebraska Department of Labor's web application for reemployment services (NEworks.nebraska.gov).
4. Applying to a job posting through an Internet job bank or directly through an employer's website (proof of the date of application and job applied for shall be provided to the Department of Labor).
5. Attending a resume writing class for the purpose of preparing or revising a resume for submission to a job posting.
6. Attending job seeking skills classes, workshops, or job clubs.
7. Meeting with a career counselor.
8. Attending a sponsored networking event in your occupational field or industry.
9. Attending a job fair.
10. Joining a professional organization in your occupational field or industry.
11. Taking a civil service exam.
12. Taking a pre-employment exam, at the request of an employer.
13. Taking skills and interests tests sponsored by the Department of Labor, a community college or accredited college or university to identify a new occupational field or industry.
14. Visiting an employer's place of business to fill out a job application.
15. Telephoning employers to arrange for job interviews.
4. ~~During each of the first five benefit weeks claimed, a claimant shall make no less than five job contacts with employers who may reasonably be expected to have~~

openings for suitable work, except that contacts with the same employer more than once in a 4-week period are not credited as a work search contact unless a new job is posted by the employer or available. At least one of the five job contacts with employers shall be an application for suitable work as defined in *Neb. Rev. Stat. §48-628.03(3)*.

2. ~~Beginning with the sixth benefit week claimed, each claimant shall make no less than five job contacts with employers who may reasonably be expected to have openings for suitable work, except that contacts with the same employer more than once in a 4-week period are not credited as a work search contact unless a new job is posted by the employer or available. The job contacts with employers shall occur on at least three different days of the benefit week. At least two of the five job contacts with employers shall be applications for suitable work as defined in *Neb. Rev. Stat. §48-628.03(3)*.~~

3. ~~Beginning with the fourteenth benefit week claimed, each claimant shall make no less than five job contacts with employers who may reasonably be expected to have openings for suitable work, except that contacts with the same employer more than once in a 4-week period are not credited as a work search contact unless a new job is posted by the employer or available. The job contacts with employers must occur on at least four different days of the benefit week. At least two of the five job contacts with employers shall be applications for suitable work as defined in *Neb. Rev. Stat. §48-628.03(3)*.~~

4.16. A claimant shall record each week's work search activities effort in an electronic web application maintained and verified by the Department of Labor as the Commissioner of Labor shall direct. ~~and shall provide such information as is requested so that the work search activity can be verified.~~ A claimant shall record reemployment activities contacts (a) during the week in which he or she is looking for work, or (b) at the same time he or she claims for benefits for the benefit week for which the work search was performed. However, a claimant shall not be able to record his or her work search activities contacts after he or she submits a claim for benefits for the benefit week the work searches were performed. A failure to record the reemployment activities effort in the directed manner will be considered a failure to report as directed, and the claimant shall be ineligible for the week in which he or she failed to report.

D. ~~Referrals Electronic notifications by the Nebraska Department of Labor's web application for Reemployment and Benefit services of job openings matching up with the job skills described in the claimant's resume in the employment services' web application shall be considered as a direction by the Commissioner to apply for available, suitable work within the meaning of *Neb. Rev. Stat. §48-628.03(3)*.~~

E. Eligibility for benefits of claimants seeking only part-time work is established in *Neb. Rev. Stat. §48-627*.

005. Beginning with the sixth benefit week claimed, a claimant will be required to expand the scope of the job search regarding acceptable hours, wages, conditions, location, and type of work.

006. A. A claimant is considered available for work during the week of unemployment claimed if he or she meets any of the requirements under 20 CFR 604.5(a) :

1. The individual is available for any work for all or a portion of the week claimed, provided that any limitation placed by the individual on his or her availability does not constitute a withdrawal from the labor market.

2. The individual limits his or her availability to work which is suitable for such individual as determined under *Neb. Rev. Stat. §48-628*.
 3. The individual is on temporary lay-off and is available to work only for the employer that has temporarily laid-off the individual.
- B. A claimant is considered able to work during the week of unemployment claimed if he or she meets the requirements under 20 CFR 604.4:
1. The individual is able to work for all or a portion of the week claimed, provided any limitation on his or her ability to work does not constitute a withdrawal from the labor market; or
 2. If an individual has previously demonstrated his or her ability to work and availability for work following the most recent separation from employment, the Nebraska Department of Labor may consider the individual able to work during the week of unemployment claimed despite the individual's illness or injury, unless the individual has refused an offer of suitable work due to such illness or injury.
- B.C ~~A claimant who is unavailable for employment or physically unable to work for any reason for four days of any week shall be disqualified from receiving benefits for that week. A claimant will not be considered unavailable for employment if he or she has a "duty before any court under a lawfully issued summons" during the week of unemployment claimed.~~⁴ See, 20 CFR 604.5(b).

007. The Commissioner may waive the requirement that an applicant search for work if:

- A. The applicant is attached to a regular job or industry;
- B. The applicant is eligible for referral as a member in good standing in a labor union which has a union hiring hall;
- C. Compliance would be oppressive or inconsistent with the purpose of the Nebraska Employment Security Law;
- D. The applicant is attending training approved by the Commissioner pursuant to 225 NAC 1;
- E. The applicant is attending training funded in whole or part pursuant to *Neb. Rev. Stat. §48-622.02*; or
- F. The applicant is attending training funded in whole or part through the Nebraska Workforce Retraining Initiative; or
- G. If during the week of application, the applicant is employed in an affected unit included within an approved short-time compensation plan.

008. A claimant shall be ineligible for benefits if the claimant fails to report for required reemployment services. As directed by the Commissioner, ~~such as job search assistance services, including, but not limited to,~~ any claimant who has been determined to be likely to exhaust regular benefits must participate in ~~and to need~~ reemployment services pursuant to a profiling system established by the Commissioner pursuant to *Neb. Rev. Stat. §48-627(6)*, §303(j)(1) of the Federal Social Security Act, and 219 NAC 17. ~~No fee shall be charged to the claimant for participation in such reemployment services.~~ The Commissioner may waive participation in such reemployment services if the Commissioner determines that:

- A. The claimant has completed such services; or

B. There is justifiable cause for the claimant's failure to participate in such services.

009. ~~For purposes of Neb. Rev. Stat. §48-628(7) §48-628.03, an individual shall be considered to be registered for full attendance at and regularly attending an established school, college or university if the individual is treated as a full-time student at the school, college or university that the individual is attending for purposes of determining eligibility for federally subsidized financial assistance.~~