

Section 473.4 of title 12 of the New York Code of Rules and Regulations is repealed and a new section 473.4 is added to read as follows:

(a) In order to continue to be eligible for benefits, claimants must establish that they are ready, willing, and able to work; and actively seeking work during each week for which they are claiming benefits. To be considered to be actively seeking work, a claimant must be engaged in systematic and sustained efforts, as defined in subdivisions (b) and (c), to find work. The claimant must provide proof of these work search efforts to the Department of Labor upon request, unless good cause is shown, or the claimant is otherwise exempted pursuant to subdivision (k).

(b) A claimant who fails to conduct at least three work search activities in a week shall be ineligible for benefits for that week. The minimum work search activity shall be from those listed in subdivision (c), focused on obtaining suitable work, as defined in subdivision (d). The Department of Labor is authorized to refer claimants for additional services aimed at facilitating a faster return to work, including but not limited to:

- (1) The development of a written work search plan pursuant to subdivision (l);
- (2) The development and implementation of a reemployment services orientation, which includes at least three of the items listed in subdivision (c)(1). This program will satisfy three weeks of work search activity; and
- (3) A Career Center where such work search activities may be performed in person or through any electronic means provided or approved by the Department of Labor.

(c) Work search activities include:

- (1) Using employment resources available at the local Career Center or through a virtual career center platform provided by the Department of Labor, such as:
 - (i) meeting with Career Center advisors;
 - (ii) receiving job market information from Career Center staff regarding the availability of jobs from a particular industry or region;
 - (iii) participating in skills assessments for occupation matching;
 - (iv) participating in instructional workshops; and
 - (v) obtaining and following up with employers on job referrals and job matches from the Career Center.
- (2) Submitting a job application and/or resume to employers or former employers who may reasonably be expected to have openings.
- (3) Attending job search seminars, scheduled career networking meetings, job fairs, or employment-related workshops that offer instruction in improving individual skills for obtaining employment.
- (4) Interviewing with potential employers.
- (5) Registering, applying, or taking job-related or pre-hire tests for a public or private employer, including civil service examinations.

(6) Registering with and checking in with private employment agencies, placement services, unions, and placement offices of schools, colleges or universities, and/or professional organizations.

(7) Using the telephone, business directories, internet, social media, or online job matching systems to search for jobs, get leads, request referrals, or make appointments for job interviews.

(8) Any other reasonable activity that may assist a claimant to obtain employment.

(d) The term “suitable work,” as used throughout this section, is defined as work for which the claimant is reasonably fitted by training and/or experience.

(e) After ten full weeks of benefits are claimed, the definition of “suitable work” will be expanded to include any work that the claimant is capable of performing, whether or not the claimant has any experience or training in such work.

(f) Evidence of work search efforts must include a weekly written or electronic record of work search activity. All information in the record must be true, accurate, and, where practicable, subject to verification. When possible, supporting documentation, including, but not limited to, job fair employer list, printouts from online search efforts, a prospective employer's business card, electronic correspondence with employers, confirmation of online application for a job, should be maintained with the work search record.

(g) Each work search activity identified in the record of work search activity should include the following information, as applicable:

- (1) Description or nature of the work search activity. If the activity is in connection with a specific position, the claimant should identify the job title and the employer’s name and address.
- (2) The date(s) and manner of the work search activity performed.
- (3) Status or result of work search activity performed. This may include, but is not limited to, a pending application, scheduled interview, or job offer accepted.

(h) Weekly written or electronic work search records must be retained for one year from the effective date of the claim, unless submitted online through the Department of Labor website. The Department of Labor may request work search records to verify continued eligibility for benefits, or in connection with a claim review, audit, or a hearing or appeal in which work search is an issue. The claimant shall provide the written or electronic records required by this section upon request. If the claimant fails to provide records, the claimant will be subject to sanctions identified in subdivision (j).

(i) A claimant who has willfully made a false statement or representation about work search activities, or fails to provide work search records upon request, will be subject to penalties and a denial of benefits and required repayment of benefits received.

(j) Unless otherwise exempted or for good cause, any failure to conduct a systematic and sustained work search or keep a work search record pursuant to subdivision (g) or provide a work search record pursuant to subdivision (h) shall result in a determination of ineligibility for benefits.

(k) A claimant is exempted from work search requirements for one of the following reasons:

- (1) A temporary layoff or seasonal loss of employment where the employer has given a written definite return-to-work date of up to eight consecutive weeks. Up to an additional four weeks may be authorized by the Department of Labor upon an employer’s written request that provides a new return to work date.

- (2) A union member who must obtain work through the union. The union member must be in compliance with union membership and work search requirements.
- (3) Participation in a training program approved by the Department of Labor, such as those approved pursuant to section 599 of the labor law.
- (4) Serving on a jury.
- (5) Participation in a Department of Labor-approved Shared Work Program.
- (6) Participation in a Department of Labor-approved Self-Employment Assistance Program.
- (7) Any exemption required by the state or federal law or those granted or extended by the Department of Labor upon review and consistent with state or federal laws, rules, regulations, or guidance.
- (8) The claimant has a bona-fide and accepted offer of employment starting within a reasonable amount of time as determined by the Department of Labor.

(l) Written Work Search and Reemployment Plan

(1) The Department of Labor may develop a work search or reemployment services plan with a claimant when:

- (i) Federal programs require a work search plan;
- (ii) A claimant requests a work search plan; or
- (iii) A claimant has been referred for additional services under subdivision (b)(1) or has been otherwise determined ineligible for benefits based on a failure to conduct work search efforts.

(2) Such plan shall include strategies and approaches pursuant to subdivision (c) as well as others tailored to the claimant's specific skills, experience, training and circumstances while also recognizing and mitigating barriers to work search and reemployment activities including, but not limited to, those associated with familial obligations such as relocation, child-care, and parental care.

(m) Good Cause

(1) Unless the Department of Labor determines in its discretion that there is good cause or is otherwise authorized in a work search or reemployment services plan, a claimant may not limit work search.

(2) Good cause may include, but is not limited to the following:

- (i) Location or geographic area - a claimant may limit work search to exclude employment which is at an unreasonable distance from the claimant's residence, or travel to and from the place of employment involves expense substantially greater than that required in the claimant's former employment;
- (ii) Number of hours, days of the week, or compensation - a claimant may limit his or her work search to exclude employment where the wages or compensation or hours or conditions offered are substantially less favorable to the claimant than those prevailing for similar work in the locality, or are such as tend to depress wages or working conditions;

(iii) Interference with labor organization - a claimant may limit his or her work search to exclude employment which would interfere with a claimant's right to join or retain membership in any labor organization or otherwise interfere with or violate the terms of a collective bargaining agreement;

(iv) Strike, lockout or industrial controversy - a claimant may limit work search to exclude employment where there is a strike, lockout, or other industrial controversy in the establishment in which the employment is offered; or

(v) Part-time employment - A claimant with a history of part-time work may limit work search to exclude employment where the offer of employment is not comparable to the claimant's part-time work.

(vi) Domestic violence – a claimant who is a victim of domestic violence or abuse may limit their work search if performing a work search would place the claimant in a position where the claimant could be harmed in any way.

(vii) Any other reasonable circumstance or cause as determined by the Department of Labor.

(3) It is not good cause for a claimant to limit work search to a specific position or type of work when suitable work is available to the claimant.

(n) The claimant must notify the Department of Labor if the claimant is incapable or unavailable for work, in which case the claimant's benefits will be suspended until the claimant is once again capable and available for work.

(o) If the application of any provision or part of this Rule is determined by the Secretary of Labor as not meeting requirements of federal law, such provisions shall be inoperative only to the extent as expressly and finally determined by the Secretary of Labor and without invalidating any remaining provisions.

Citations L.L. 530