

Effective 5/13/2014

35A-4-403 Eligibility of individual -- Conditions -- Furnishing reports -- Weeks of employment -- Successive benefit years.

- (1) Except as provided in Subsections (2) and (3), an unemployed individual is eligible to receive benefits for any week if the division finds:
- (a) the individual has made a claim for benefits for that week in accordance with rules the department may prescribe, except as provided in Subsection (4);
 - (b) the individual has registered for work with the department and acted in a good faith effort to secure employment during each and every week for which the individual made a claim for benefits under this chapter in accordance with rules the department may prescribe, except as provided in Subsection (4);
 - (c) the individual is able to work and is available for work during each and every week for which the individual made a claim for benefits under this chapter;
 - (d) the individual has been unemployed for a waiting period of one week for each benefit year, but a week may not be counted as a week of unemployment for the purpose of this Subsection (1)(d):
 - (i) unless it occurs within the benefit year that includes the week for which the individual claims benefits;
 - (ii) if benefits have been paid for the claim; or
 - (iii) unless the individual was eligible for benefits for the week as provided in this section and Sections 35A-4-401 and 35A-4-405, except for the requirement of this Subsection (1)(d);
 - (e)
 - (i) the individual has furnished the division separation and other information the department may prescribe by rule, or proves to the satisfaction of the division that the individual had good cause for failing to furnish the information;
 - (ii) if an employer fails to furnish reports concerning separation and employment as required by this chapter and rules adopted under the chapter, the division shall, on the basis of information it obtains, determine the eligibility and insured status of an individual affected by that failure and the employer is not considered to be an interested party to the determination;
 - (f)
 - (i) the individual's base-period wages were at least 1-1/2 times the individual's wages for insured work paid during that quarter of the individual's base period in which the individual's wages were highest; or
 - (ii) for any claimant whose benefit year is effective on or before January 1, 2011, the individual shows to the satisfaction of the division that the individual worked at least 20 weeks in insured work during the individual's base-period and earned wages of at least 5% of the monetary base-period wage requirement each week, rounded to the nearest whole dollar, provided that the individual's total base-period wages were not less than the monetary base-period wage requirement as defined in Section 35A-4-201; and
 - (g)
 - (i) the individual applying for benefits in a successive benefit year has had subsequent employment since the effective date of the preceding benefit year equal to at least six times the individual's weekly benefit amount, in insured work; and
 - (ii) the individual's total wages and employment experience in the individual's base period meet the requirements specified in Subsection (1)(f).
- (2)
- (a) For purposes of this Subsection (2), "suitable employment" means:

- (i) 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
 - (ii) wages for that work at not less than 80% of the individual's average weekly wage as determined for purposes of the Trade Act of 1974.
- (b)
- (i) An individual in training with the approval of the division is not ineligible to receive benefits by reason of nonavailability for work, failure to search for work, refusal of suitable work, failure to apply for or to accept suitable work, or not having been unemployed for a waiting period of one week for any week the individual is in the approved training.
 - (ii) For purposes of Subsection (2)(b)(i), the division shall approve any mandatory apprenticeship-related training.
- (c) Notwithstanding any other provision of this chapter, the division may not deny an otherwise eligible individual benefits for any week:
- (i) because the individual is in training approved under Section 236 (a)(1) of the Trade Act of 1974, 19 U.S.C. 2296(a);
 - (ii) for leaving work to enter training described in Subsection (2)(c)(i) if the work left is not suitable employment; or
 - (iii) because of the application to any such week in training of provisions in this law or any applicable federal unemployment compensation law relating to availability for work, active search for work, or refusal to accept work.
- (3) An individual located in a foreign country for three or more days of a week and who is otherwise eligible for benefits is only eligible to receive benefits for that week if:
- (a) the individual is legally authorized to work in the foreign country; and
 - (b) the state and the foreign country have entered into a reciprocal agreement concerning the payment of unemployment benefits.
- (4) The department may, by rule, waive or alter either or both of the requirements of Subsections (1)(a) and (b) as to:
- (a) individuals attached to regular jobs;
 - (b) a disaster in Utah as declared by the president of the United States or by the state's governor after giving due consideration to factors directly associated with the disaster, including:
 - (i) the disaster's impact on employers and their ability to employ workers in the affected area in Utah;
 - (ii) the disaster's impact on claimants and their ability to comply with filing requirements in the affected area in Utah; and
 - (iii) the magnitude of the disaster and the anticipated time for recovery; and
 - (c) cases or situations when it finds that compliance with the requirements would be oppressive, or would be inconsistent with the purposes of this chapter, as long as the rule does not conflict with Subsection 35A-4-401(1).

Amended by Chapter 371, 2014 General Session