ALABAMA DEPARTMENT OF WORKFORCE
ADMINISTRATIVE CODE

CHAPTER 480-4-1
GENERAL PROVISIONS

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480-4-1-.01 Repealed.
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480-4-1-.06 Glossary.

(1) **Definitions.** The terms used in these rules, in interpretations, in forms, and other official pronouncements issued by the Director of the Department of Industrial Relations or the Director of the Unemployment Compensation Agency shall, unless the context clearly requires otherwise, have the same meanings respectively ascribed to them as follows:

(a) **Able to Work.** The physical and mental ability to perform the duties of the claimant's regular occupation or of work that would be suitable.

(b) **Additional Claim.** A notice of new unemployment filed at the beginning of a second or subsequent series of claims within a benefit year or within a period of eligibility when a break of one week or more has occurred in the claim series with intervening employment.

(c) **Administrative Penalty.** Penalizing a claimant from four weeks to maximum benefit amount due to fraud or misrepresentation or the willful and knowing failure to disclose a material fact.

(d) **Agency.** The Unemployment Compensation Agency of the Department of Industrial Relations.

(e) **Agent State.** Any State in which an individual files a claim for benefits from another state.

(f) **Anonymous Tip.** Information about suspected fraudulent activity received from a party who wishes to remain unidentified.

(g) **Appeals.** A request for a review by an appeals authority of the Department for any determination made by a representative of the department, and including any request for a review by a higher appeals authority of a decision made by a lower appeals authority. It also includes any appeal from a determination of a representative, or any appeal or request for a hearing by a properly affected party.

(h) **Available for Work.** The readiness and willingness to accept suitable full-time employment and to conduct a diligent, independent effort to find such work. (See also Rule 480-4-3-.15).

(i) **Benefits.** The compensation payable to an individual with respect to his/her unemployment, under the unemployment insurance law of any State.

(j) **Bona Fide Work.** Work taken in good faith with earnest intent on the part of both the employee and the employer that it be permanent work.

(k) **Claim.** A notice of unemployment filed to request a determination of eligibility and the amount of benefit entitlement or to claim benefits or waiting period credit.

(l) **Claim Series.** A series of claims filed for continuous weeks of total, part-total or partial unemployment.

(m) **Code.** Code of Ala. 1975, §25-4, also referred to as "the Law."

(n) **Combined Wage Claim.** A claim filed in one state against wage credits earned in two or more states where the credits in any one state would not provide the maximum benefits.

(o) **Compensable Claim.** Any valid claim, that is payable, for benefits in a current benefit year or prior year.

(p) **Continued Claim.** A claim filed by mail or in person for waiting period credit or payment for one or more weeks of unemployment.

(q) **Covered Employment.** Employment, as defined in the State Unemployment Compensation Law, performed for a subject employer, or Federal Employment as defined in United States Code Annotated, Title 5 §85.

(r) **Determination.** Any decision rendered by the Unemployment Compensation Agency or its duly authorized representatives in writing affecting a worker's claim for unemployment benefits or the charges to an employer's account for benefits paid or payable. If the decision is adverse to the claimant, the reason must be stated.

1. **Initial Determination.** A determination normally made by a claims examiner with respect to a claim for benefits. An initial determination may include a decision on any question of law or fact necessary to be established for the complete disposition of the claim.

2. **Nonmonetary Determination.** A decision made by the initial authority based on facts related to an "issue" under the following conditions: (1) the present, past, or future benefit rights of a claimant or claimants are involved; (2) a week of unemployment is claimed and the determination affects such week or could result in a reduction of the monetary award; (3) there are identifiable documents showing the type and disposition of an issue, the material facts considered in arriving at the determination, and the legal result; and (4) the determination, if it involves the denial of benefits, is issued in the form of a written determination notice to the claimant. (No determination denying benefits may be considered to be a nonmonetary determination until the claimant has been afforded an opportunity to furnish any facts he/she may have relating to disqualifying information received from other sources.)

3. **Monetary Determination.** A written notice issued to inform an individual whether or not that individual meets the employment and wage requirements necessary to establish entitlement to compensation under a specific program, and, if entitled, the weekly and maximum benefit amounts the individual may receive.

(s) **Determination Review.** A review of a claim which has not yet reached an appeal stage but benefit rights for either a monetary or nonmonetary reason are questioned by the State agency, the claimant, the employer or another interested party.

(t) **Evidence.** Any witnesses, records, documents, copies of documents, statements, demonstrations, or any other relevant testimony or concrete objects before the department or at an appeal hearing or trial of an issue for the purpose of inducing belief in the minds of the hearing officer, department, court or jury as to the truth of a contention.

(u) **Fact-finding Interview.** A face-to-face discussion between a claimant and an employee of the Agency for the purpose of obtaining from the claimant a statement containing information on a specific eligibility or disqualification issue. This may differ from a periodic interview in that a specific issue must exist as a result of a statement made by the claimant, the liable state, an employer, or the Unemployment Compensation Agency staff.

(v) **Fraud.** The intentional misuse of facts or truth to obtain unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter fact, whether by statement or by conduct, by false or misleading statements or allegations; or, by the concealment or failure to disclose

that which should have been disclosed, which deceives and is intended to deceive another so that they or the department shall not act upon it to their or its legal injury.

(w) **Good Cause.** A reasonable cause, one that is material and substantial as applied to a particular set of facts.

(x) **Initial Claim.** A notice of unemployment filed.

1. to request a determination of entitlement to and eligibility for compensation (new claim),

2. to begin a second or subsequent period of unemployment within a benefit year or period of eligibility (additional claim), or

3. to request a determination of eligibility and establishment of a new benefit year having an effective date within the seven day period immediately following the benefit year ending date and a week for which compensation or waiting period credit was claimed (transitional claim).

(y) **Intent.** The design, resolve, or determination with which an individual or group of individuals acts in order to reach a preconceived objective.

(z) **Internal Audit.** The audit of local offices and central office units, conducted by the Agency, to ensure that proper procedures and policies are being adhered to by agency personnel.

(aa) **Interstate Benefit Payment Plan.** The plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the State (or States) in which benefit credits have been accumulated.

(ab) **Interstate Claim.** A claim filed in one (agent) state based on monetary entitlement to compensation in another (liable) state.

(ac) **Interstate Claimant.** An individual who claims benefits under the unemployment insurance law of one or more liable States through the facilities of an agent State. The term "Interstate Claimant" shall not include any individual who customarily commutes from a residence in an agent State to work in a liable State unless the Alabama Department of Industrial Relations finds that this exclusion would create undue hardships on such claimants in specified areas.

(ad) **Intrastate Claim.** A claim filed in the same state in which the individual claimant's wage credits were earned.

(ae) **Joint Claim.** A claim for benefits based upon work experience under both state and Federal unemployment compensation laws or under two Federal unemployment compensation laws.

(af) **Law.** Code of Ala. 1975, §25-4, also referred to as "the Code" and the "statute."

(ag) **Liable State.** Any State against which an individual files, through another State, a claim for benefits.

(ah) **Mass Separation.** Separation (permanently or for an indefinite period or for an expected duration of 7 or more days) at or about the same time and for the same reason, of 25 or more workers employed in a single establishment.

(ai) **Material Fact.** A fact which necessarily has some bearing on the subject matter, such as is necessary to determine the issue.

(aj) **Mail Claim.** A claim filed by mail instead of being filed in person at a local unemployment claims office.

(ak) **New Claim.** The first claim filed in person or by mail to request a determination of entitlement to and eligibility for compensation which results in an agency generated document of an appealable monetary determination provided to the potential claimant.

(al) **Nonmonetary Redetermination.** A decision made under statute, rule or well defined policy specifically requiring the reopening of a nonmonetary determination prior to the administrative appeal stage, which affirms, reverses or modifies such determination.

(am) **Overpayment.** Amount of unemployment compensation benefits erroneously paid to a claimant due to error, misrepresentation or fraud.

(an) **Partial Claim.** A claim normally filed by the employer for a worker whose employment has not been terminated but who, due to lack of work, worked less than full time and earned less than his/her weekly benefit amount. A partial claim can also be filed by the employee if the employer does not file the claim.

(ao) **Pay Period.** That period of time during which the wages due on any pay day were earned.

(ap) **Qualifying Employment and Wages.** The amount of employment and/or wages an individual must have within a specified period of time in order to be monetarily entitled to compensation.

(aq) **Reimbursable Basis.** The method of payment wherein a governmental or non-profit employing unit has elected to reimburse this Agency for the amount of benefits chargeable to such unit in lieu of making quarterly contributions on a tax rate basis to the Agency.)

(ar) **Reopened Claim.** The first claim filed following a break in the claim series during a benefit year which was caused by other than intervening employment, i.e., illness, disqualification, unavailability or failure to report for any reason other than job attachment.

(as) **State.** The fifty states, the District of Columbia, Puerto Rico, the Virgin Islands and Canada.

(at) **Substantial Reason.** Just ground for such action, adequate excuses that will bear the test of reason; and always the element of good faith (DIR vs. Lynch 370 So 2d 1050, Ala. Civ. App. 1979.)

(au) **Transitional Claim.** A new claim filed to request a determination of eligibility and establishment of a new benefit year having an effective date within the seven-day period immediately following the benefit year ending date and a week for which compensation or waiting period credit was claimed.

(av) Unemployment as used in these rules, shall be construed to include "total" or "part-total" unemployment as the context may indicate, unless the term "partial unemployment" is used and in that event shall be construed to mean partial unemployment. These items shall be defined as follows:

1. "Total unemployment" means the unemployment of an individual in any week during which he performs no services and with respect to which no wages are payable to him.

2. "Part-total unemployment" means the unemployment of an individual in any week of less than full-time work in which he earns some remuneration, but less than his weekly benefit amount, and throughout which he is not attached to his regular employer.

3. "Partial unemployment" means the unemployment of an individual who during any week earns less than his weekly benefit amount, is employed by his regular employer, and works less than his normal customary full-time weekly hours because of a lack of full-time work.

(aw) **Wage Cross Match Audit.** The computerized quarterly cross match of benefits received by claimants and wages reported by employers to the state of Alabama.

(ax) **Wages Paid.** Wages both actually received by the worker and wages constructively paid. Wages are constructively paid when they are credited to the account of, or set apart for a worker without any substantial restriction as to the time or manner of payment or conditions upon which payment is to be made, and must be made available so that they may be drawn upon at any time, and their payment brought within his/her own control and disposition, although not then actually reduced to possession. (See also Rule 480-4-2-.21.)

(ay) **Waiting Period.** Seven consecutive days of unemployment occurring within the benefit year, for which no benefits have been paid and for which the individual was in all respects eligible for benefits except for the provisions of this paragraph.

(az) **Weekly Benefit Amount.** The amount payable to a claimant for a compensable week of total unemployment.

(ba) Week of Unemployment includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

(bb) **Week of Partial Unemployment.**

1. with respect to a partially unemployed individual whose wages are paid on a weekly basis, a week of partial unemployment shall consist of his pay period week;

2. with respect to a partially unemployed individual whose wages are not paid on a weekly basis, a week of partial unemployment shall consist of a calendar week;

3. the Director may, upon his own initiative or upon application, prescribe as to any individual or group of individuals such other seven consecutive-day period as he may find appropriate under the circumstances.

(bc) **Weeks Claimed.** The weeks covered by intrastate or interstate continued claims for which waiting period credit or payment of compensation is requested by the claimant.

(2) Terms with limited definition or limited application will be found within the rule to which it applies.
Author: Rex Granger
Statutory Authority: Code of Ala. 1975, §§25-2-7, 25-2-8, 25-4-111.
History: Effective September 30, 1982.

480-4-1-.07 Force And Effect Of Instruction.

Instructions printed upon any form issued by the Director pertaining to the preparation and return of that form shall have the force and effect of rules issued by the Director.
Author: Rex Granger
Statutory Authority: Code of Ala. 1975, §§25-2-7, 25-2-8, 25-4-111.
History: Effective September 30, 1982.

480-4-1-.08 Electronic Reporting.

(1) It is recognized that because of constant technological advances, that the Department must be authorized to accept documents of all types filed in electronic commerce/media and amend internal processing procedures to allow for such technological advances.

(2) The Department of Industrial Relations, Unemployment Compensation Agency, shall have authority to generate or receive documents of all types filed physically or utilizing electronic media, to control the integrity of the data submitted, to reduce processing costs and processing times, to facilitate accuracy and reduce complexities of manual processing and to accept electronic signatures and other such authentication methods.
Author: Byron Abrams, Unemployment Compensation Director
Statutory Authority: Code of Ala. 1975, §§25-2-8, 25-4-111.
History: Filed May 3, 2001; effective June 7, 2001.

480-4-1-.09 Normal Commuting Area For Trade Adjustment Assistance (TAA) Purposes.

(1) Section 617.22 of the Trade Act of 1974, as amended, requires that training must be, among other things, reasonably available and available at a reasonable cost. In determining whether or not training is reasonably available, first consideration shall be given to training opportunities available within the worker's normal commuting area. Training at facilities outside the worker's normal commuting area should be approved only if such training is not available in the area or the training to be provided outside the normal commuting area will involve less charges to TAA funds. Also, training at facilities outside the worker's normal commuting area that involves transportation or subsistence costs which add substantially to the total costs shall not be approved if other appropriate training is available.

(2) Section 617.42 states that if the worker has no reasonable exception of suitable employment in the commuting area, and has a reasonable expectation of obtaining suitable employment of long-term duration outside the commuting area, the worker may request a job search allowance.

(3) Section 617.42 states that if the worker has no reasonable expectation of securing suitable employment in the commuting area, and has obtained suitable employment affording a reasonable expectation of employment of long-term duration, or a bona fide offer of such suitable employment, outside the commuting area, the worker may request a relocation allowance.

(4) Reasonable expectation of employment of long-term duration is defined as employment accepted with the intent of being permanent employed.

(5) "Commuting area" or "normal commuting area" for Trade Adjustment Assistance (TAA) purposes is defined as a maximum of seventy-five miles one way from the worker's residence to the training facility or suitable employment. When a Training Proposal for Trade Adjustment Assistance (TAA) funded training requesting training outside the commuting area or an application for Job Search Allowance or Relocation Allowance is received, the guidelines set forth in this rule will be used to make a determination to the request.
Author: Bonnie M. Lashley, Trade Act Coordinator, Unemployment Compensation Division
Statutory Authority: Trade Act of 1974, PL 93-618 as amended, §§617.22, 617.32, 617.42.
History: **New Rule:** Filed December 23, 2005; effective January 27, 2006.

480-4-1-.10 Calculation Of Average Cost And Reasonable Cost Of Trade Adjustment Assistance (TAA) Funded Training.

(1) Section 617.22(6) of the Trade Act of 1974, as amended, requires that training be available at a reasonable cost. "Available at a reasonable cost" means that training may not be approved when the costs of the training are unreasonably high in comparison with the average cost of training of other workers in similar occupations at other providers.

(2) The cost of training which included tuition and related expenses (books, tools, and academic fees), transportation and subsistence expenses of active TAA participants is totaled and divided by the number of active TAA participants in order to determine the average cost of training. The calculation will be made as follows:

Total training costs ÷ number of active participants = the average cost of training

(3) Another factor in determining if training is available at the reasonable cost is calculated by doubling the average cost of training of active TAA participants. This calculated amount is considered to be a reasonable cost for TAA funded training and will serve as the training cap for Alabama. When a Training Proposal for TAA funded training is received and the training cost is in excess of the training cap, a determination denying the training will be issued. The calculation will be made as follows:

Average cost of training x two = reasonable cost of training
Author: Bonnie M. Lashley, Trade Act Coordinator, Unemployment Compensation Division
Statutory Authority: Trade Act of 1974, PL 93-618 as amended, §617.22.
History: New Rule: Filed December 23, 2005; effective January 27, 2006.