ALABAMA DEPARTMENT OF WORKFORCE
ADMINISTRATIVE CODE

CHAPTER 480-4-3
BENEFITS

480-4-3-.15 Availability For Work.

(1) This rule does not attempt to set hard and fast specifics as to what constitutes availability that could apply to each conceivable circumstance that might arise, but rather, to provide a standard of interpretation in certain specific areas as set out below.

In all cases under this rule the individual circumstances must be carefully investigated, and the judgment made on the basis of those circumstances. The relevant facts and the reason for any decision should be documented and placed in the claimant's file. The burden of proof of availability rests with the claimant.

(2) Availability for work contemplates on the part of the claimant a voluntary, full, and conscientious exposure to possible job opportunities either at a locality where wages on which a claim is based were earned or at a locality where it may reasonably be expected that work for which the claimant is qualified by previous training or experience may be available. The claimant must show a good faith effort to find such work as could reasonably be expected of an individual who desires work. Registration at an employment office alone does not establish that a claimant is available for suitable work. A thorough coverage of suitable employment possibilities is contemplated. This will vary widely among groups of claimants, being influenced by such factors as local hiring practices, labor market conditions (commute distance and cost, wage rates, prospects of employment in the local labor market, etc.) and types of work for which claimants are qualified.

(a) If a claimant is on a temporary layoff, the duration of which is not expected to exceed eight (8) weeks, or a customary or seasonal layoff from his regular employer, such layoff not expected to exceed eight (8) weeks, no work search is required during such temporary, customary, or seasonal layoff as a condition of eligibility. This work search exemption shall not apply unless such layoff is from an employer who normally provides work of a permanent and continuing nature to the claimant.

(b) When a claimant willfully follows a course of action designed to discourage prospective employers from hiring such claimant, the claimant shall be determined unavailable for work and ineligible for benefits.

(3) The claimant must be actively seeking, available for and willing to accept work during the full-time hours and full work week and for the shifts normally worked in the trade or industry for which qualified by experience or training. Except as allowed by paragraph (e) below, the requirements cannot be met by being available for part-time work only.

(a) Actively seeking work generally means a good faith and reasonable search as would be expected of an individual who desires work. Reasonable and active effort shall mean engaging in systematic and sustained efforts to find work, including contacting at least three (3) prospective employers for each week of unemployment claimed. The Department shall require the claimant to provide proof of work search efforts when filing his or her weekly certification. A claimant's subsequent proof of work search efforts may not include the same prospective employer unless the employer has indicated since the time of the initial contact that the employer is hiring. The Department shall conduct random reviews of at least five (5%) percent of the work search proof provided by claimant's each week. The Governor by executive order may suspend the work search requirement during a state of emergency to the extent permissible by federal law.

(b) Available for work generally means that the claimant is in the vicinity, physically able and free to accept work as described above. Vicinity does not necessarily require a physical presence; it only requires that a person be available for contact by telephone or other electronic means.

(c) Disqualification should not normally be assessed if the claimant is available during the majority of the normal and customary work week for his occupation provided that no work was available during the portion of the week that the claimant was not available, and that the claimant made a reasonable work search. Majority of the work week is defined as equal to or greater than fifty percent (50%). In determining what constitutes a "normal customary work week", one must take into consideration the hours and days that the occupation requires rather than what the claimant worked on their last job. Provided, however, a determination of ineligibility for a week of unemployment shall not result simply and solely because the worker had to be absent from work for not more than four hours due to illness or compelling personal circumstances.

(d) Willing to accept work generally means that the claimant demonstrates a willingness to accept any work for which he/she is qualified by previous training or experience and that is suitable in accordance with Code of Ala. 1975, 25-4-78(5).

(e) Persons with disabilities applying for unemployment compensation benefits must establish a reasonable and active effort to secure work in an amount which they have shown to be

qualified to perform by past history, experience, and training and which is supported by medical documentation reflecting the applicant's inability to maintain full-time employment by reason of his or her disability.

(4) An active search for work is evidence of availability for work. Registration with the Employment Service is required as a further condition of eligibility, unless otherwise exempted.

(a) Various methods of work search may be employed by claimants in their efforts to find work. While any means of seeking work may result in a job, some methods may not be acceptable to remain eligible for benefits. The following are examples of suitable methods which may be used. This list is not intended to be limiting or prohibitive, but is to offer guidance.

1. In-Person Contacts. Almost always the most appropriate method whether or not combined with other means. (The contact should be with the hiring authority where possible.)

2. Telephone Contacts. An acceptable method when combined with in-person contacts. (Telephone contacts should be made with the hiring authority where possible.)

3. Employment Agency. An acceptable method, but registration with the agency does not relieve the claimant of other types of contacts which may be deemed appropriate or required by Code of Ala. 1975, §25-4-77.

4. The Resumé. An acceptable method for individuals in certain skills or professions where this is the standard job-seeking practice.

5. Claimants who identify themselves as a member of a union where work is secured exclusively through a union hiring hall will not be required to register with the employment service and may limit their work search to registration with their hiring hall. Such claimants must be able to show that they are a member in good standing of their union and that they are currently registered with their hiring hall. The law makes no distinction between those who are and those who are not members of a labor union, but requires of both that they demonstrate a constant availability for work.

6. Electronic methods including E-mail and the Internet are acceptable methods of work search where this method of seeking employment is usual and customary.

7. An Employment Service exclusive hiring agreement with an employer is a recognized job search with that

employer. In an area where job opportunities in that occupation are only available through this method, the claimant would be required to follow the instructions from the Employment Service on keeping these applications active.

(b) All claimants must use reasonable and realistic job-seeking methods to establish availability and remain eligible for unemployment benefits. In addition, claimants using any of the methods except (5) above must also register for work with the State Employment Service.

(c) While in-person contacts are not required for each week, in order that claimants meet minimal availability requirements, they must make some in-person contacts where work is usually obtained in this manner in order to demonstrate a willingness to work during a claim series.

(d) Code of Ala. 1975, 25-4-78(5) requires that certain factors be considered in determining the suitability of work for which the individual must be available. Pertinent among these are (1) experience and prior earnings and (2) the length of unemployment and prospects for securing work in his/her customary occupation. Unless it is obvious that an individual, other than a member of a labor union in good standing and registered at his union hiring hall, cannot reasonably expect to find work in the locality in line with prior earnings, a reasonable period shall be allowed in which to seek work somewhat comparable. As the period of unemployment lengthens and prospects for locating such work diminish, the individual must be willing to accept work which would have been deemed unsuitable earlier in the period of unemployment. (See State of Alabama Department of Industrial Relations vs. James M. Harbin 365 So.2d 313 (Ala. Civ. App. 1978). The totality of work search must be considered, not just isolated weeks. He must be able, available, and seeking work for each week claimed.

(5) A claimant incarcerated or legally detained (to include work release) is considered unavailable for work. If incarcerated or detained for only a short time, not equal to or greater than 50% of the normal and customary work week, he would not be considered unavailable because of such incarceration.

(6) Generally, students attending school will not be considered available for work unless it can be shown that they are available during the normal hours for work for which qualified by experience and training. If a student is attending school outside of normal customary work hours for his occupation, no issue exists. If school hours overlap normal work hours, such claimants must show, not only that they are prepared to quit school if work is found but also that school will not interfere with a reasonable and active effort to secure work. Generally, availability for students

must include consideration of the amount of money invested in schooling, what type of work they are seeking (are they seeking work commensurate with their current skill level?), whether school hours allow time for an adequate work search, time remaining until studies are completed, wage demand, and, if willing to change hours of classes, would the school allow this change anytime during the term. These factors are critical to the determination of the claimant's attachment to the labor market. Students not available during school terms are not considered in the labor market between school terms, or during summer recess, and will be presumed not available for work for these periods.

Only students attending high school on a **regular, full-time basis** are considered unavailable (not in the labor market), either during or between terms or academic years. Such students are not questioned regarding their willingness to quit school to obtain employment; their attendance demonstrates that education is their primary pursuit.

(7) Jury Duty. The claimant is considered available for work while serving on jury duty since time spent in jury service is not a personal service performed under a contract of hire in an employment situation but is a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individuals full-time. Witness and jury fees will be considered as reimbursement for expenses and not as wages.

(8) Notwithstanding any other provision of this rule, all availability for work requirements, including search for work requirements, are waived for any individual who is enrolled in a course of training with approval of the Secretary as, provided in §25-4-77(a)(7)(b). Approved training is not limited to, but includes:

(a) Dislocated workers and other government sponsored training programs for unemployed workers.

(b) Training to which the individual is referred by the Alabama State Employment Service in conjunction with an employment development plan or to guidelines established by Section 4 of Public Law 103-152, or as amended or by its successor. (9) Disabled Accessibility to Job. A job offer shall not be suitable for an individual with a disability if he cannot gain access to a building or its facility.

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