

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Department of Labor
Rule No. 480-4-3-.11
Rule Title: Claims for Partial Unemployment
_____ New X Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____ NO _____

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____ NO _____

Is there another, less restrictive method of regulation available that could adequately protect the public? _____ NO _____

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? _____ NO _____

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? _____ NO _____

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ YES _____

Does the proposed rule have an economic impact? _____ NO _____

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer ____/s Stephen McCormick_____

Date 9-19-13

(DATE FILED)
(STAMP)

Department of
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-4-3-.11 Claims for Partial Unemployment_

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: The adoption is necessary to further define the parameters of claims for partial unemployment compensation benefits.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Stephen McCormick, Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131 by mail or in person between the hours of 8:00 am and 4:30 pm, Monday through Friday until and including November 08, 2013. Persons wishing to submit data, views or arguments orally should contact Stephen McCormick by telephone at (334) 242-8274 during this period to arrange an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: November 08, 2013

CONTACT PERSON AT AGENCY:

Stephen McCormick
Department of Labor
649 Monroe Street
Montgomery, AL 36131
Telephone: (334) 242-8274

_____/s Stephen McCormick_____
Stephen McCormick
Director, Governmental Affairs

ALABAMA DEPARTMENT OF LABOR
ADMINISTRATIVE CODE

CHAPTER 480-4-3
BENEFITS

480-4-3-.11 Claims For Partial Unemployment.

(1) Employer Responsibility in the Initiation of a Claim for Partial Benefits.

(a) On the normal or customary payday for the pay period in which occurs the first week ~~in which~~ a worker has earnings less than approximately seventy percent of his/her usual weekly earnings ~~for full-time employment~~ and less than the highest allowable weekly benefit for total unemployment, an employer shall give such worker a "Worker's Claim for Partial Benefits," setting forth the information required of the employer thereon. If the worker completes and returns the form to his/her employer, the employer with five (5) or more employees shall promptly file the claim for partial unemployment benefits electronically through the internet; or by any filing method approved by the Alabama Department of ~~Industrial Relations~~ Labor unless a waiver is granted by the Unemployment Compensation Director or his designee.

(b) When an employer first files a claim for partial benefits for a worker, the Alabama Department of ~~Industrial Relations~~ Labor shall promptly notify the worker named therein of his/her potential right to benefits and shall notify the employer of the worker's weekly benefit amount for total unemployment (which shall be the partial earnings limit) and benefit year beginning date. Upon receipt thereof, each employer shall record upon the payroll records the weekly benefit amount and benefit year beginning date.

(c) Employers with five (5) or more employees may electronically file a partial claim for his workers for as many as three (3) consecutive weeks during which the employee has no earnings but the employer does not wish to terminate them. If the employer desires to continue filing partial claims with no earnings beyond the three weeks, authority must be requested by e-mail, letter or memorandum addressed to the Unemployment Compensation Director. The request should contain complete justification for continuing to file partial claims.

(d) A waiver request must be submitted in writing and include the business name and address, state unemployment account number, Federal Identification Number, number of employees and state the reason(s) why a method other than the prescribed method is necessary. No waiver may be granted for a period longer than 1 year. Employers with less than 5 employees do not need to request a waiver as they may report by non-electronic means but are encouraged to file electronically.

(2) Registration and Filing of Claims for Partial Unemployment.

(a) A claim for partial benefits for an individual filed electronically or by telephone by him/her, or his/her employer ~~in~~ on his/her behalf, shall constitute such individual's notice of unemployment, and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim provided that such claim is filed and received by the Alabama Department of ~~Industrial Relations~~ Labor within 14 days following the ending date of the week of unemployment covered by such claim; except, that where the employer's payroll is on a biweekly basis or an employer's administrative offices are closed for a period of two weeks, the 14 day limitation with respect to the first week of such pay period or closure is extended to 18 days. The Unemployment Compensation Director shall have the prerogative to accept or reject any partial claim received after 18 days.

(b) Where an employer fails to electronically file a claim for partial benefits, the worker can directly file his/her unemployment compensation claim during the week in which he/she does not work. The worker may directly file his/her unemployment compensation claim by telephone or online at ~~DIR'S~~ DOL'S website: www.dir.labor.alabama.gov. If the worker expects the employer to have filed a claim for him/her and the employer fails to do so, the Alabama Department of ~~Industrial Relations~~ Labor, Unemployment Compensation Division shall allow backdating the claim which ended more than 14 days prior to the date on which such worker filed his/her claim by telephone or online at ~~DIR'S~~ DOL'S website: www.dir.labor.alabama.gov.

(3) Extended Period for Registration and the Filing of Claims for Good Cause.

(a) Notwithstanding the provisions of this Rule, if the Unemployment Compensation Director finds that the failure of any individual to register and file a claim for partial unemployment benefits within the time set forth in paragraph 2 was due to failure on the part of the employer to comply with any

of the provisions of this Rule, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the Alabama Department of ~~Industrial Relations~~ Labor, Unemployment Compensation Division to discharge their responsibilities in connection with such partial unemployment claim, the Unemployment Compensation Director may extend the period during which such claim may be filed to a date which shall be not more than one year from the ending date of any week of partial unemployment for which the individual did so fail to file. Failure to comply with this rule or statute may result in a civil penalty of \$25.00 per violation as provided for in the Code of Ala, 1975 §25-11-17, supra.

(4) Employer Records in Connection with Partial Unemployment.

(a) In addition to the requirements set forth above, each employer shall keep his/her payroll records in such form that it will be possible from an inspection thereof to determine, with respect to each worker in his/her employ, who may be eligible for partial benefits. The records shall include, but not be limited to:

1. Wages earned, by weeks, as described in Paragraph (1)(a) of this rule.

2. Whether any week was in fact a week of less than ~~full-time work~~ the amount of hours regularly scheduled for the individual employee per week.

3. Time lost, if any, by such worker, due to his/her non-availability for work.

Authors: Hoyt Russell, Director Unemployment Compensation Division

Statutory Authority: Code of Ala. 1975, §§25-2-7, 25-2-8, 25-4-111.

History: Amended: Filed November 24, 2008, effective December 29, 2008.