

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 919.431.3000 or email oah.postmaster@oah.nc.gov.

TITLE 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.1 that the Department of Commerce/Division of Employment Security intends to adopt the rules cited as 04 NCAC 24G .0101-0103.

Codifier of Rules approved these rules as emergency rules effective April 14, 2020 and received for publication the following notice and proposed temporary rules on April 3, 2020 and May 14, 2020.

Public Hearing:

Date: May 26, 2020

Time: 10:00 a.m.

Location: Teleconference: 1(888) 204-5984, Access Code: 3069171

Reason for Proposed Temporary Action: A serious and unforeseen threat to the public health, safety or welfare. The effective date of a recent act of the General Assembly or of the U.S. Congress, Cite Families First Coronavirus Response Act. Pub. 1. No. 116-127, Division D, 1402 (2020). A recent change in federal or state budgetary policy Eff date of change March 17, 2020. Executive Order No. 118, Governor Roy Cooper, 2020. On March 10, 2020 the Governor of North Carolina Issued Executive Order No. 116 and declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of Coronavirus Disease 2019 (COVID-19), a respiratory disease that results from the coronavirus. COVID-19 can result in serious illness or death. On March 11, 2020, the World Health Organization declared the coronavirus an international pandemic. The World Health Organization, the Centers for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 17, 2020, the Governor of North Carolina issued Executive Order No. 118 and directed the Secretary of Commerce and Assistant Secretary for the Division of Employment Security to ensure that individuals who are separated from employment, had hours reduced, or are prevented from working due to a medical condition caused by COVID-19 or due to communicable disease control measures are eligible for unemployment benefits to the maximum amount permitted by federal law.

On March 18, 2020 the President of the United States signed the Families First Coronavirus Response Act (Pub. 1 116-127). The legislation makes emergency supplemental appropriations in response to the spread of COVID19 and includes the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) at Division D. EUISAA sets forth the requirements for emergency administrative grants to states and authorizes emergency flexibility allowing states to temporarily modify certain aspects of their unemployment compensation laws, a short-term waiver of interest on state trust fund advances, and full federal funding during extended benefit periods through December 31, 2020.

Comment Procedures: Comments from the public shall be directed to: Regina S. Adams, Post Office Box 25903; phone (919) 707-1026; fax (919) 715-7194; email des.rules@nccommerce.com. The comment period begins May 15, 2020 and ends June 8, 2020.

CHAPTER 24 – EMPLOYMENT SECURITY

SUBCHAPTER 24G – UNEMPLOYMENT COMPENSATION DUE TO PUBLIC HEALTH EMERGENCY OR DISASTER DECLARATION

SECTION .0100 – UNEMPLOYMENT COMPENSATION DUE TO CORONAVIRUS AND COVID-19

04 NCAC 24G .0101 TEMPORARY WAIVER OF CERTAIN ELIGIBILITY REQUIREMENTS

(a) DES shall temporarily waive certain eligibility requirements for unemployment insurance benefits.

(b) The temporary waiver of these requirements shall apply only to claims filed for the period of and pertaining to the declared coronavirus and COVID-19 public health emergency as set forth in Executive Order No. 118 issued on March 17, 2020.

(c) DES shall temporarily waive:

(1) the requirement of a one week waiting period in G.S. 96-14.1(b);

(2) the work search requirements set forth in G.S. 96-14.9(b);

(3) the requirement for an individual to actively seek work pursuant to G.S. 96-14.9(e); and

(4) the lack of work requirements of the unemployed provisions of G.S. 96-15.01(b)(2)(a).

(d) DES shall postpone all mandatory in-person contact with individuals seeking unemployment benefits.

Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15.01; 166A-19.30; 20 C.F.R. 604.4; Families First Coronavirus Response Act, Pub. L. No. 116-127, Division D, 1402 (2020); E.O. 118, Governor Roy Cooper, 2020;

04 NCAC 24G .0102

NOTICE THAT EMPLOYERS MUST GIVE TO EMPLOYEES AS A RESULT OF CORONAVIRUS

Employers shall provide employees with notice of the availability of unemployment compensation at the time of separation from employment. The notice shall inform employees of the following:

- (1) Unemployment insurance benefits are available to workers who are unemployed and who meet the State's eligibility requirements;
- (2) Employees may file a claim in the first week that employment stops, or work hours are reduced;
- (3) Employees may file claims online at des.nc.gov or by telephone to (888) 737-0259.
- (4) Employees must provide DES with the following information for DES to process the claim:
 - (a) full legal name;
 - (b) social security number; and
 - (c) authorization to work (if the employee is not a U.S. citizen or resident).
- (5) Employees may contact DES at (888) 737-0259 and select the appropriate menu option for assistance.

Authority G.S. 96-4; 166A-19.30; Families First Coronavirus Response Act, Pub. L. No. 116-127, Division D, 1402 (2020); E.O. 118, Governor Roy Cooper, 2020.

04 NCAC 24G .0103

TEMPORARY WAIVER OF BENEFIT CHARGES TO EMPLOYER ACCOUNTS

- (a) DES shall temporarily waive the charging of benefit payments to employer accounts as required by State or federal law.
- (b) The temporary waiver of these benefit charges shall apply only to claims filed for the period of and pertaining to the declared coronavirus and COVID-19 public health emergency as set forth in Executive Order No. 118 issued on March 17, 2020.
- (c) DES shall temporarily suspend the requirements of 04 NCAC 24D .0102(a)(9) and (10).
- (d) DES shall temporarily suspend the requirements of 04 NCAC 24D .0103.
- (e) DES shall temporarily suspend the requirements of 04 NCAC 24D .0105.

Authority G.S. 96-4; 166A-19.30; Families First Coronavirus Response Act, Pub. L. No. 116-127, Division D, 1402 (2020); E.O. 118, Governor Roy Cooper, 2020.