

Employment Department Temporary Rules for Unemployment Insurance Benefits Flexibility

On March 8, 2020, Governor Brown issued Executive Order No. 20-03 declaring a statewide emergency due to the infectious novel coronavirus. Since then, the impact of the virus and efforts to slow its spread have had an increasing impact on Oregon workers and businesses. The unemployment insurance system aims to help workers and businesses, and the communities they are in, during times of disrupted employment. This rule sets out unemployment insurance provisions applicable to the unique situations arising due to COVID-19 and the actions to slow its spread. Unless otherwise provided, the provisions of this rule apply retroactively to March 8, 2020, when the statewide emergency was declared.

(1) The following situations are deemed to be “COVID-19 related situations”:

(a) A person is unable to work because they are ill with the novel coronavirus;

(b) A person is unable to work because they have been potentially exposed to the novel coronavirus and have been subjected to a mandatory quarantine period;

(c) A person is unable to work because they have been advised by their health care provider or by advice issued by public health officials to self-quarantine due to possible risk of exposure to, or spread of, the novel coronavirus;

(d) A person is unable to work because their employer has ceased or curtailed operations due to the novel coronavirus, including closures or curtailments based on the direction or advice of the Governor or of public health officials;

(e) A person is unable to work because they have to stay home to care for a family member, or other person with whom they live or for whom they provide care, who is suffering from the novel coronavirus or subject to a mandatory quarantine;

(f) A person is unable to work because they have to stay home to care for a child due to the closure of schools, child care providers, or similar facilities due to the novel coronavirus; and

(g) A person is being asked to work when it would require them to act in violation of a mandatory quarantine or Governor’s directive regarding the limitation of activities to limit the spread of the novel coronavirus.

(2) Disqualifications from unemployment insurance benefits. People are not disqualified from receiving unemployment insurance benefits under the following circumstances (although they still must meet the weekly eligibility requirements to receive benefits):

(a) A person is discharged because of a COVID-19 related situation (ORS 657.176(2)(b));

(b) A person quits work because of a COVID-19 related situation (ORS 657.176(2)(c));

(c) A person fails to apply for work when referred by the employment office or the director because of a COVID-19 related situation (ORS 657.176(2)(d)); or

(d) A person fails to accept an offer of work because of a COVID-19 related situation (ORS 657.176(2)(f)).

(3) Able to work – ORS 657.155(1)(c) and federal law require a person be able to work in order to receive unemployment insurance benefits.

(a) A person will not be deemed unable to work because:

(A) They are quarantined by their health care provider, or by advice issued by public health officials to self-quarantine due to possible risk of exposure to, or spread of, the novel coronavirus, but they are not sick;

(B) They are home sick because of the novel coronavirus or a condition with similar flu like symptoms and they have not turned down an offer of work since they began being at home due to the sickness; or

(C) They are hospitalized, or in other institutionalized care, due to the novel coronavirus, but for less than half of the week, and they did not turn down an offer to work that week.

(b) A person is unable to work in a week if they are offered suitable work and do not accept it because they are sick with novel coronavirus, or a condition with similar flu like symptoms.

(4) Actively seeking work – ORS 657.155(1)(c) and federal law require a person to be actively seeking work in order to receive unemployment insurance benefits. **The federal Families First Coronavirus Response Act permits states to temporarily modify their unemployment insurances laws regarding work search requirements on an emergency basis to respond to the spread of COVID-19 (Section 4102(b)). Because of the vital importance to public health and safety of mitigating the spread of COVID-19, social distancing measures must be maintained. Accordingly, effective the week ending March 28, 2020, notwithstanding OAR 471-030-0036, and unless otherwise notified in writing by the Employment Department, a person will be considered actively seeking work for purposes of ORS 657.155 if they are willing to look for work when state and local emergency declarations related to the coronavirus expire or otherwise are no longer in effect.**

(5) Available for work – ORS 657.155(1)(c) and federal law require a person to be available for work in order to receive unemployment insurance benefits. A person will not be deemed unavailable for work because:

(a) They are staying in their home, or are quarantined, due to risk of exposure to, or spread of, the novel coronavirus at the advice of a health care provider or by advice issued by public health officials or by directive of a government official, even if their employer had work for them they could otherwise have performed;

(b) They are home solely because they lack childcare for a child or children due to school or daycare closures or curtailments;

(c) They are home to care for a family member due to the effects of novel coronavirus; or

(d) They normally work less than full-time and are only available for less than full-time work.

(6) ORS 657.315(2) permits the waiver of overpayment recoveries if the overpayment was not caused in any way by the claimant and if recovery would be against equity and good conscience. Notwithstanding OAR 471-030-0053, for benefits paid for weeks starting with the week ending March 28, 2020, given the economic conditions created by the coronavirus and measures taken to mitigate its spread, it would be against equity and good conscience to recover these overpayments. Recovery efforts may be resumed after emergency declarations related to the coronavirus expire or otherwise are no longer in effect.