

Illinois Releases New Rules During Unemployment Insurance During COVID-19 Pandemic

In response to rising unemployment due to the COVID-19 pandemic, the Illinois Department of Employment Security (IDES) has released emergency rules to ensure that those in need of unemployment insurance due to COVID-19-related issues may easily obtain it. The purpose of these new rules is to relax the tests for determining eligibility to obtain unemployment insurance benefits: searching for work; able to work; and available to work.

The current surge in claims for unemployment compensation is quite large, and there are about 1,100 claims agents available to process claims, down from a total of 1,400 claims. The Department encourages claimants to file online rather than by phone. About 80 percent of the claimants are filing online and the phone system is often clogged. It is preferred that the applicant file on a desktop computer rather than a hand held device. The IDES phone number is 1-800-244-5631.

The new rules permit individuals who have been laid off from their jobs, even temporarily, due to COVID-19 to obtain insurance without having to register with the IDES employment service to seek other work or to look for other work. In effect, an individual making a claim for insurance based on a COVID-19 layoff would be considered to be actively seeking work. In order for this presumption to apply, the individual would have to be prepared to return to his or her job as soon as the employer is able to reopen, meaning that the unemployment will be for a short period or that the person will be recalled within ten weeks.

For example, if an employer decides to temporarily lay off or furlough employees for 2 weeks, pay them for 1 week, and allow them to use their sick leave to be paid for the second week, temporarily laid off employees may file for unemployment for the second week, thus allowing them to conserve their accumulated sick leave.

Under the normal rules, an individual who left work to address childcare needs would be considered to have left work voluntarily, and therefore ineligible to receive insurance. But because of statewide school closures, the emergency rules permit parents who leave work to address childcare needs to be considered to have left work involuntarily. These employees would still need to meet the other requirements to be considered eligible. Among the requirements is that they would be available and eligible to perform work at home. If the claimant is able to work from the isolation of being at home, the "ability to work" test needed to be eligible for insurance would be met. Though the shelter-in-place order largely makes this rule moot, it may still have an effect on essential employees. This rule endures until the parent's child's school has reopened.

A construction worker can fulfill the work search requirement by calling into a union hiring hall.

IDES left it unclear as to whether an individual may collect unemployment insurance if they leave their job due to safety concerns over COVID-19. In such a situation, the claimant should keep a record of the safety issues that concern the employee, such as lack of personal protective

equipment, soap, or dirty bathrooms. The Department encourages employees who leave work for such reasons to file for unemployment compensation.

An individual who leaves work voluntarily without a good reason attributable to the employer is generally disqualified from receiving benefits. To obtain benefits in this scenario, claimants would have to show that they had a good reason for quitting, and that that reason is attributable to the employer. The former employee has a duty to make a reasonable effort to work with his or her employer to resolve whatever issues caused the individual to consider quitting before insurance may be obtained. IDES has offered no further guidance on COVID-19-related instances where a person may be denied benefits on these grounds.

The emergency rules protect individuals who have either (1) been diagnosed with COVID-19, (2) are staying at home to care for a spouse, parent, or child who has been diagnosed with COVID-19, or (3) because of a government-imposed or government-recommended quarantine. With Governor J.B. Pritzker having issued a “shelter in place” order taking effect on March 21, 2020 confining all non-essential employees to their homes, most employees fit into either one of these categories. An individual in one of the categories is considered unemployed through no fault of their own, but is still required to meet the remaining eligibility requirements, including ability and availability for work and being registered with the state employment service (though, as stated above, this would not impact those laid off from their jobs due to COVID-19). A person is considered able and available for work if there is some work that they can perform at home.

The Emergency Rules provide that the usual one week waiting period to obtain a benefit has been waived. As of this time, no insurance is available to those who have already received the full 26 weeks of benefits for the current benefit year.

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