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09.01.30 - RULES OF UNEMPLOYMENT INSURANCE BENEFIT CLAIMS

000. -- 009. (RESERVED).

010. GENERAL PROVISIONS.

The following Rules for Unemployment Insurance Benefit Claims are adopted pursuant to Sec. 72-1333(b), Idaho Code. (7-1-93)

011. DEFINITIONS.

The terms used in these Rules, in interpretations, in forms, and other official pronouncements issued by the Director of the Department of Labor shall, unless the context clearly requires otherwise, have the meanings respectively ascribed to them as follows: (7-1-93)

01. Able to Work. The physical and mental ability to perform work under ordinary circumstances. (6-30-94)
02. Administrative Office. The main office in Boise, Idaho wherein the administrative functions of the Department of Labor are maintained. (7-1-93)
03. Available for Work. A state of mind involving a readiness and willingness to work and a desire to find a job. (6-30-94)
04. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (7-1-93)
05. Claim. An application for unemployment insurance or "benefits" as defined by the Employment Security Law. (7-1-93)
06. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (7-1-93)
07. Appealed Claim. A party's request for review by the Appeals Examiner of a Claims Examiner's decision on a claim for benefits or a request for review by the Industrial Commission of a decision made by the Appeals Examiner establishes an appealed claim. (6-30-94)
08. Compensable Claim. An application for benefits which certifies to the completion of a benefit period (one or more weeks). (7-1-93)
09. Contested Claim. A claim which has not reached the appeal stage, but with respect to which there is a difference of opinion between the claimant and the employer, or between the claimant, the employer, and the Department of Labor as to the claimant's right to benefits. (7-1-93)
10. Continued Claim. Application for waiting period credit or for benefits for which application is made with respect to specific waiting weeks or compensable weeks. (7-1-93)
11. Employment. For the purpose of Section 72-1366(e) Idaho Code, employment shall mean that employment subsequent to which a claimant has not earned sixteen times his weekly benefit amount. (4-1-85)
12. Initial Claim. The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (7-1-93)
13. Interstate Claim. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (7-1-93)

14. Intrastate Claim. A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state and claims benefits. (7-1-93)
15. Mail Claim. A claim filed by mail rather than in person at an employment office. (7-1-93)
16. New Claim. A new claim is the first initial claim made in a benefit year. (7-1-93)
17. Regular Claim. A claim based on wages earned during a base period, excluding extended benefit claims. (7-1-93)
18. Combined Wage Claim. A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one state may combine such wages. (7-1-93)
19. Temporary Extended Benefit Claim. Additional benefits which may become payable to a benefit claimant pursuant to the provisions of Section 72-1367(a) Idaho Code. (7-1-93)
20. Contribution Report. An employer's report of the amount of contribution, or tax, due to the State Employment Security Fund with respect to wages paid to his workers. (7-1-93)
21. Covered Worker. An individual who has earned wages in covered employment. (7-1-93)
22. Department of Labor. The organization through which the Director administers the Employment Security Law. (7-1-93)
23. Initial Determination. A decision made by the Claims Examiner with respect to a claim for benefits. The determination may include a decision on any question of law or fact necessary to be established for the complete disposition of the claim. If the claim is disallowed, the determination must state the reason for the disallowance. (7-1-93)
24. Monetary Determination. A determination of eligibility which lists a claimant's base period employer(s) and wages and which establishes, if eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (7-1-93)
25. Non-monetary Determination. A determination issued by a Claims Examiner with respect to the personal eligibility conditions of a benefit claimant. (7-3-93)
26. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged with benefits paid on a claim for benefits. (7-1-93)
27. Itinerant Point. A place where employment office services or claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (7-1-93)
28. Local Office. An office wherein direct placement relationships are maintained with employers and applicants, and wherein direct claims-taking relationships are maintained with applicants for benefits by personnel of the Department of Labor. (7-1-93)
29. Partially Unemployed Individual. A partially unemployed individual is one who, during a particular week, (7-1-93)
- a. Earned less than one and one-half (1 1/2) times his weekly benefit amount; (6-30-94)
 - b. Was employed by a regular employer; and (6-30-94)
 - c. Worked less than his normal customary full-time hours for such regular employer because of lack of full-time work. (6-30-94)

30. Redetermination. A decision made by a Claims Examiner upon reconsideration of a determination. (7-1-93)
31. Status Report. A report required of all employers which gives information necessary for a determination of whether the employer is a covered employer under the Employment Security Law. (7-1-93)
32. Total Benefit Amount. The full amount in benefits for which a worker may be entitled during a benefit year under his regular claim for benefits. (7-1-93)
33. Unemployment. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1 1/2) times his weekly benefit amount. (7-1-93)
34. Week. With respect to all claims for benefits, a period of seven consecutive days ending at midnight on Saturday. (7-1-93)
35. Weekly Benefit Amount. The full amount of benefits a worker is entitled to receive for one week of total unemployment. (7-1-93)
36. Average Weekly Wage. For the purpose of Section 72-1367(b)(1) Idaho Code, Average Weekly Wage shall be computed by dividing calendar year total wages in covered employment (including State Government employment), as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the calendar year and then dividing the resulting figure by fifty two (52). (7-1-93)
37. Week of Full-Time Employment. A week of full-time employment is one in which the claimant has worked his normal customary full-time hours or in which the earnings are more than one and one-half (1 1/2) times his weekly benefit amount. (7-1-93)
38. Annual Wage. For the purpose of Section 72-1350(a) Idaho Code, the annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by such covered employers. (5-1-87)

012. -- 050. (RESERVED).

051. EMPLOYEES OF EDUCATIONAL INSTITUTIONS.

Benefits based on wages earned for services performed for an educational institution or educational service agency shall not be paid for any week which commences during a period between two (2) successive school years or terms, or during vacation periods and holiday recesses within terms, if an individual performs services in the first year or term and there is a contract or reasonable assurance that the individual will perform such services in the second year, term or remainder of a term. Ref. Sec. 72-1366(q)(1), (2), (3), (4) Idaho Code. (5-1-87)

01. Reasonable Assurance. "Reasonable assurance" of continuing employment as provided in Section 72-1366(q)(1), (2), and (3), exists when an educational institution or service agency can provide written evidence to the Department of Labor indicating that the claimant has been given a bona fide offer of a specific job in the second academic period. In addition, for such "reasonable assurance" to exist, the terms and conditions of the job offered in the second period must not be substantially less favorable than the terms and conditions of the job performed in the first period. Ref. Sec. 72-1366(q)(1), (2), (3), (4) Idaho Code. (5-1-87)

02. Possibility of Employment. An offer of employment by an educational institution or service agency is not "bona fide" if merely a possibility of employment exists. A possibility of employment, rather than a reasonable assurance, exists when (1) the circumstances under which the claimant would be employed are not within the control of the educational institution, and (2) the educational institution cannot provide evidence that such an individual normally would perform services the following academic year. Ref. Sec. 72-1366(q)(1), (2), (3), (4) Idaho Code. (6-30-94)

03. Change in Reasonable Assurance. A claimant who initially has been determined not to have a reasonable assurance of continuing employment, will subsequently become disqualified for benefits under Section 72-1366(q)(1), (2), or (3) when an educational institution or service agency gives the claimant such reasonable assurance. Ref. Sec. 72-1366(q)(1), (2), (3), (4) Idaho Code. (6-30-94)

04. Retroactive Payments. As provided by Section 72-1366(q)(2) of the Employment Security Law, benefits will not be paid unless an application for such payments is filed not later than thirty (30) days after the beginning of the second of two (2) successive school years or terms. Such application must be made in writing. Ref. Sec. 72-1366(q)(2) Idaho Code. (6-30-94)

05. Withdrawal of Reasonable Assurance. Before retroactive payments may be made under the provisions of Section 72-1366(q)(2) of the Employment Security Law, a claimant must provide written evidence from the employer that previously provided a reasonable assurance of work, that he was not offered an opportunity to return to work in the second of two (2) successive school years or terms. Ref. Sec. 72-1366(q)(2) Idaho Code. (6-30-94)

06. Under Contract, But Between School Term. Employees of educational institutions who are hired under contract for the school term, shall be considered unemployed between school terms even though they may receive their salary in twelve (12) monthly payments. Ref. Sec. 72-1366(a), Idaho Code. (6-30-94)

052. -- 059. (RESERVED).

060. ABLE TO WORK.

The phrase, "able to work," refers to the physical and mental ability to perform work under conditions ordinarily existing during a normal work week. It shall not mean that a person must be able to perform work in his customary occupation or the same kind of work he last performed. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

01. Withdrawing from Labor Market Because of Illness. A claimant withdrawing from the labor market prior to filing a claim for benefits because of illness or injury is not available for work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

02. Able to Work Part-time. A person who is "able to work" only part of the workday or part of the workweek shall not be considered as "able to work." Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

03. Able to Perform Some Type of Work. A person must be able to perform work of some type for which he can qualify at the time he files an initial claim for unemployment insurance. If he becomes ill or disabled after an initial claim has been filed, the claim may be continued under the illness provision if no suitable work is available. If suitable work is offered or becomes available which would have provided wages greater than one half (1/2) the weekly benefit amount and cannot be accepted because of such illness or disability, the claimant shall be ineligible for benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

04. Illness Provision as Applied to Transitional Claim. Receipt of benefits during an illness continues throughout a spell of unemployment, even though the current benefit year has ended and a transition claim is filed on the following year. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

05. Illness Provision. A person who claims benefits under the illness provision, must remain available for local office job referral. If a claimant leaves the area of the Local Office for treatment of an illness and continues to claim under the illness provision, the claim may be handled on a mail claim basis. When suitable work becomes available, and the claimant is unable to respond to a referral because of illness, his claim shall be denied. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

06. Mental Illness. A person who, after filing a valid claim, becomes unable to work because of mental illness is entitled to the same benefits under the illness provision as a person who is physically ill or disabled. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

061. AVAILABLE FOR WORK.

The phrase "available for work" is defined as a state of mind which involves a readiness and willingness to work, a

desire to find a job, and having the physical ability to perform work, and including the possibility of marketing one's services in his area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired, for suitable work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

01. Availability Requirements. The type of work for which the claimant is available must exist in that area to the extent that a normal unemployed person would generally find work within a reasonable period of time. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

02. Compelling Personal Circumstances. A claimant must be available for the whole of the week for which he claims benefits except if he is out of his normal labor market area due to compelling personal circumstances and the absence does not exceed a minor portion of the week. Compelling absences are caused by circumstances over which the claimant has no control. Ref. Sec. 72-1366(d) Idaho Code. (7-1-97)

03. Temporary Absence from Local Labor Market. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the work week in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market or the absence is due to compelling personal circumstances as provided in Subsection 061.02. Ref. Sec. 72-1366(d) Idaho Code. (7-1-97)

062. ATTENDANCE AT SCHOOL OR A TRAINING COURSE.

A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or seeking work and if he will discontinue attendance upon receipt of an offer of employment if there is a conflict between employment and the schooling or the training. Ref. Sec. 72-1312(1) Idaho Code. (2-1-94)

063. WAIVER OF ONE YEAR LIMITATION.

For purposes of approving a waiver of the one (1) year limitation on school or training courses, specified by Idaho Code Section 72-1366(h)(3)(b), the following criteria must be met: (2-1-94)

01. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his or her unemployment insurance benefits have been exhausted. (2-1-94)

02. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A demand occupation is one in which work opportunities are available and there is not a surplus of qualified applicants. (2-1-94)

03. Duration of Training. At the time that the claimant applies for the waiver, the completion of the school or training course may be of a duration no longer than two (2) years. (2-1-94)

04. Denial. No claimant shall be denied a waiver of the one year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time of the request for waiver. Ref. Sec. 72-1366(h)(3)(b) Idaho Code. (2-1-94)

064. CONSCIENTIOUS OBJECTION.

No person should be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

065. CONTRACT OBLIGATION.

A person who is bound by contract which prevents accepting other employment shall not be eligible for benefits. (6-30-94)

01. Bound by Contract. A person who is bound by contract which does not prevent accepting other employment but receives pay for a period of not working, shall not be eligible for benefits. Ref. Sec. 72-1312 Idaho Code. (6-30-94)

02. Not Bound by Contract. A person who is not bound by contract, and does not receive pay for a period of no work would be eligible for benefits if that person were able and available for work and seeking suitable

work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

066. DISTANCE TO WORK.

A claimant seeking work must be willing to travel the distance normally traveled by fellow workers. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

01. Moving to Remote Area. A claimant moving to a remote locality where there is very little possibility of obtaining work will be denied benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

02. Inadequate or Lack of Transportation. Difficulty with transportation is not a bona fide reason for failure to be available for or to seek work. Transportation must be the responsibility of the claimant. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

067. DOMESTIC CIRCUMSTANCES.

A claimant is not eligible for unemployment insurance benefits if domestic circumstances are so compelling as to take precedence over the availability for work or seeking work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

01. Child Care. Child care must be arranged so as not to restrict a claimant's availability for work or seeking work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

068. EQUIPMENT.

Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect the claimant's availability for work, unless he will accept other work. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

069. EVIDENCE.

A claimant is responsible for providing proof of his availability and of his seeking work if it is challenged or required by Rule. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

070. EXPERIENCE OR TRAINING.

A claimant shall be expected to be available for work in line with his past experience or training, providing there is no change in his ability to perform that work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

071. INCARCERATION/WORK RELEASE.

A claimant who is incarcerated for any part of the claimant's normal work week is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

072. LICENSING OR GOVERNMENT RESTRICTIONS.

A claimant prohibited by law from engaging in certain work, must be available for other employment, to be eligible for benefits. Ref. Sec. 72-1366(d) Idaho Code. A claimant must provide or be capable of obtaining a license or permit if required by law for performance of work requiring such permit. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

073. PROSPECT FOR WORK.

A claimant laid off from regular employment for a short period and who expects to be called back at any moment does not need to be available for alternate permanent work to be eligible for benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

01. Prospects for Work. A claimant unemployed for a long period of time shall be expected to lower his expectations for employment and become available for work which may not have been previously considered suitable. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

02. Questionable Availability. A claimant (referred to in Subsection 073.01) must be notified of his questionable availability status before a determination of ineligibility is made. (6-30-94)

03. Evidence of Employment. Satisfactory evidence that an individual's prospects for obtaining work

in his customary occupation within a reasonably short period shall include: (a) a letter signed by a prospective employer giving assurances of work within the next four (4) weeks, or (b) a verifiable statement by the claimant that he will have work within the next four (4) weeks. Ref. Sec. 72-1367A(c)(4) Idaho Code. (6-30-94)

074. PUBLIC SERVICE.

Performing public service, including voluntary non-remunerated service, does not disqualify individuals from benefits as long as they are meeting the availability and seeking work requirements. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

01. Jury Duty/Subpoenas. A claimant serving on jury duty or subpoenaed is exempt from the availability and work seeking requirements of the law. A claimant would not be denied benefits if the jury duty or subpoena resulted in a refusal of work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

02. Public Official. A public official who receives pay and performs "full-time" service is not unemployed nor eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

075. TIME.

A claimant shall not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. Ref. Sec. 72-1366(d) Idaho Code. A claimant restricting his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming reemployed. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

076. UNREASONABLE RESTRICTIONS ON WORKING CONDITIONS.

A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his seeking and availability for work shall be denied benefits. Ref. Sec. 72-1366(d)(3) Idaho Code. (6-30-94)

077. VACATION.

A person on a vacation approved by the employer during a time when work is available would not be considered fully available for work nor eligible for benefits. Ref. Sec. 72-1366 Idaho Code. (6-30-94)

078. WORK, NATURE OF.

Every claimant has the right to restrict his availability to suitable work. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

01. Restricting Work. A claimant restricting work to that done only within the home which places a severe limitation on work accepted shall be denied benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

02. Suitable Work. A claimant who customarily works either inside or outside may restrict his availability for a reasonable time to that type of work for which he is best suited and shall not be denied benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

079. AVAILABILITY RESTRICTIONS.

A claimant whose actions materially affect his availability shall not be eligible for benefits. Ref. Sec. 72-1366(d). (6-30-94)

01. Conscientious Objection. A claimant may refuse work that requires employment on his Sabbath because of conscientious objection to work on that day. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

02. Full-time/Part-time Work. A claimant must be available for a full work week and a full, normal work day to be eligible for benefits. A claimant restricting his availability to only part-time work or failing to accept available, suitable part-time work shall be ineligible for benefits. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

03. Seasonal Availability. A claimant, regularly employed on a seasonal basis, shall be available for other types of work in the off-season to be eligible for benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

04. Nonexistent Employment Prospects. A claimant shall apply for and accept a lower or beginner rate for employment if prospects are nonexistent for a better paying job in the locality. Ref. Sec. 72-1366(d) Idaho Code.

(6-30-94)

080. (RESERVED).

081. ELIGIBILITY OF ALIENS.

Benefits shall not be paid based on services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law. Ref. Sec. 72-1366(s), Idaho Code. (6-1-86)

01. Alien Eligibility. To be eligible for benefits, an alien must fall within one of the three categories specified in Rule Section 081 at the time the work on which the claim is based was performed. In addition, at the time benefits are claimed, the alien must have current, valid authorization to work from the Immigration & Naturalization Service in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements). Ref. Sec. 72-1366(d),(s), Idaho Code. (6-30-94)

02. Permanent Residence. The category of individuals who are "lawfully admitted for permanent residence," includes aliens who have been lawfully admitted to the United States as "immigrants" and those whose status has been adjusted from that of "non-immigrant" under the Immigration and Nationality Act. Evidence of this status is the Alien Registration Receipt Card, or "green card," issued to each lawful permanent resident by the Immigration and Naturalization Service. Ref. Sec. 72-1366(s), Idaho Code. (6-30-94)

03. Performing Services. The category of individuals who are "lawfully present for purposes of performing services," includes three (3) groups of aliens: (1) Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (2) legally-admitted non-immigrants who are granted a status by the Immigration and Naturalization Service which authorizes them to work in the United States during their stay; and (3) other aliens with Immigration and Naturalization Service authorization to work in the United States regardless of their status. Ref. Sec. 72-1366(s), Idaho Code. (6-30-94)

04. Permanently Residing Under Color of Law. The category of individuals who are "permanently residing in the United States under color of law," includes the following groups of aliens: (1) refugees and parolees, as identified in the Immigration and Nationality Act; (2) aliens presumed by Immigration and Naturalization Service to be lawfully admitted for permanent residence; and (3) aliens who, after review of their particular circumstances under INS statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal Immigration and Naturalization Service action to authorize an alien's residence under "color of law," the Immigration and Naturalization Service must know of the alien's presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. Ref. Sec. 72-1366(s), Idaho Code. (6-30-94)

082. -- 115. (RESERVED).

116. ERP CODING.

Job attachment classification. For the purpose of administering the work search requirements of Section 72-1366(d) and (f), Idaho Code; claimants will be classified according to their attachment to an employer or industry, as follows: (6-30-94)

01. Code A. Claimants who have a firm attachment to an employer, industry or union, or who are temporarily or seasonally unemployed, and expect to return to their former jobs or employers in a reasonable length of time. (6-30-94)

02. Code B. Claimants who occupationally possess marketable skills, but have no immediate prospect for reemployment, and whose employment expectations, i.e., wages, hours, etc., are basically realistic in relation to normal labor market supply and demand in their area of availability. (6-30-94)

03. Code C. Claimants in this group are those with no marketable skills or whose skills have become obsolete and those who are not able to return to their former occupations, or who have a special need for employment

related services. Ref. Sec. 72-1366(d) and (f), Idaho Code. (6-30-94)

04. Code D. Claimants in this group are those assigned to a training course under the provisions of Section 72-1366(d)(f) Idaho Code. (6-30-94)

117. -- 125. (RESERVED).

126. EFFORT TO SECURE EMPLOYMENT OR WILLINGNESS TO WORK.

A claimant will be expected to do what is normally done by unemployed persons that are seeking work. Ref. Sec. 72-1366(d) Idaho Code. (12-1-78)

01. Work Seeking Requirements. These will be determined and modified by the Department representative in relation to the length of unemployment, prevailing local labor market conditions, and/or average county unemployment rates. Ref. Sec. 72-1366(d) and (f) Idaho Code. (6-30-94)

02. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

03. Register for Work. A claimant must register for work, file a claim for unemployment insurance benefits, and report as required to be eligible for benefits. Ref. Sec. 72-1366(a)(1) and (2) Idaho Code. (6-30-94)

04. Attitude and Behavior. The claimant's attitude and behavior must be conducive to a positive employer reaction to the job search. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

05. Employer's Hiring Practice. An employer's reluctance to hire a person because of appearance or physical condition is not a determining factor in ruling on eligibility for benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

06. Seeking Work. Claimants shall seek work in accordance with established categories of work seeking activity as instructed by a Department representative. (12-1-78)

a. Code O: Claimants in this work seeking group will be required to do at least one (1) of the following: maintain regular contact with their employer; make local inquiries; maintain contact with Job Service; check "help-wanted" ads in newspapers or trade publications. (12-1-78)

b. Code 1: Claimants in this work seeking group will be required to do at least one (1) of the following: send resumes to firms/businesses that hire people with their skills; make at least one (1) employer contact each week either in person or by phone; attend a Job Opportunity Workshop. (11-1-85)

c. Code 2: Claimants in this work seeking group will be required to do at least one (1) of the following: make at least two (2) employer contacts per week in the manner prescribed by the local office; expand work search efforts to surrounding areas or states; attend a Job Opportunity Workshop. (11-1-85)

d. Code 3: Claimants in this work seeking group will be required to do at least one (1) of the following: make at least three (3) employer contacts per week in the manner prescribed by the local office; enroll and attend a specific training program to achieve employment plan. Ref. Sec. 72-1366(d) and (f) Idaho Code. (11-1-85)

127. -- 135. (RESERVED).

136. EMPLOYER REQUIREMENTS.

In many cases the need for being bonded or for meeting minimum physical requirements to perform certain tasks is a reasonable and normal demand. Excessive requirements by employers shall not be used as a basis to deny benefits. Ref. Sec. 72-1366(g) Idaho Code. (12-1-78)

137. -- 160. (RESERVED).

161. AMERICANS WITH DISABILITIES ACT.

An individual with a medically verifiable long term or permanent physical or mental disability (as defined at 29 C.F.R. Sec 1623.2(g)) which prevents the individual from working full time or during particular shifts shall not be deemed unable to work for so long as the individual remains available to work to the full extent of his or her ability. Claimants meeting the above criteria shall be exempt from complying with those rules addressing able and available requirements found elsewhere in the Idaho Employment Security Rules which would be in conflict with the intent of this provision. (6-30-94)

01. Availability Requirements. For purposes of this rule, a claimant with disabilities will be considered as having complied with the availability requirements if he or she is willing to work the maximum number of hours that the claimant has established through medically verifiable evidence that he or she is able to work. (6-30-94)

02. Long Term. For purposes of this rule, "long term" shall be defined as twelve (12) months or longer. (6-30-94)

03. Full Time Employment. An individual being paid under this provision will be considered fully employed and ineligible to receive unemployment benefits in any week that the individual works the maximum number of hours that he is able to work. (6-30-94)

162. -- 175. (RESERVED).

176. LEAVE OF ABSENCE.

A claimant who is on a mutually agreed upon leave of absence is employed and not eligible for benefits. In order to meet the definition of "leave of absence," the employer must have committed to the claimant's return to work at the end of the leave. Ref. Sec. 72-1366 Idaho Code. (6-30-94)

177. SUSPENSION.

If a claimant is suspended without pay for a specific number of days for disciplinary reasons, he would not be considered unemployed nor eligible for benefits. However, a person suspended without pay for investigative purposes for an indefinite period of time will be considered discharged and a determination issued as to whether that discharge was for misconduct. Ref. Section 72-1366 Idaho Code. (6-30-94)

178. HOLIDAY PAY.

Holiday pay must be reported as though earned in the week in which the holiday occurs. Holiday pay that is contingent upon returning to work after the holiday is considered a bonus and reportable when paid. Ref. Sec. 72-1366 Idaho Code. (6-30-94)

179. VACATION PAY.

Vacation pay allocable to a certain period of time in accordance with the employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. Ref. Sec. 72-1366 Idaho Code. (6-30-94)

180. SEVERANCE PAY.

An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of severance of the employment relationship must be reported when paid. Ref. Sec. 72-1366 Idaho Code. (6-30-94)

181. NON-PERIODIC REMUNERATION.

All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid. Ref. Sec. 72-1366 Idaho Code. (6-30-94)

182. -- 191. (RESERVED).

191. MILITARY SERVICE.

A person on active duty in the armed forces, including summer field training of armed forces reserve components, shall be considered employed and not eligible for benefits while on such duty. Ref. Sec. 72-1316A(e)(3) Idaho Code. (12-1-78)

192. -- 220. (RESERVED).

221. RECEIPT OF OTHER PAYMENTS.

The receipt of disability compensation shall not in itself establish inability or unavailability for work, even though the payee has been declared totally disabled. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

01. Compensation Payments. Injury or disability compensation payments are not considered as wages and are not deductible for unemployment insurance. Ref. Sec. 72-1328 Idaho Code. (6-30-94)

02. Retirement Payments. Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ability and availability shall be determined in accordance with the law. Ref. Sec. 72-1312(b)(4) Idaho Code. (6-30-94)

03. Back Pay or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. If the claimant received waiting week credit for a week in which the award or judgment is reported or assigned, the waiting week will be denied if the amount of the award or judgment for the week renders the claimant ineligible for such credit. If the claimant received benefits for the weeks in which the award or judgment is reported or assigned, such benefits are overpaid to the extent that the weekly amount of the award or judgment affects the claimant's eligibility. Ref. Sec. 72-1328 Idaho Code. (6-30-94)

04. Penalty or Damage Awards. Amounts awarded to the claimant as a penalty or damages against the employer, other than for lost wages, do not constitute wages. Ref. Sec. 72-1328 Idaho Code. (6-30-94)

222. -- 230. (RESERVED).

231. PENSION, RETIREMENT, OR RETIRED PAY, OR ANNUITY PAYMENTS.

The pension deduction provision of Section 72-1312(b)(4) Idaho Code, shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension shall be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension, the pension offset shall be reduced one hundred percent (100%), and no deduction for the pension shall be made from the claimant's weekly benefit amount. Ref. Sec. 72-1312(b)(4) Idaho Code. (5-1-92)

01. Pension Contributions. The burden shall be on the benefit claimant to establish by substantial competent evidence that the claimant has made contributions toward the pension, retirement or retired pay, annuity or other similar payment. Ref. Sec. 72-1312(b)(4) Idaho Code. (6-30-94)

02. Changes in Pension Amount. Any changes in the amount of pension, retirement, retired pay or annuity payments which affects deductions shall be applied in the first full week after the effective date of such change. Ref. Sec. 72-1312(b) Idaho Code. (6-30-94)

232. -- 240. (RESERVED).

241. RELIEF WORK OR PUBLIC ASSISTANCE.

Remuneration received for relief work or public service work must be considered on the same basis as any other employment. Ref. Sec. 72-1366(d) Idaho Code. (12-1-81)

01. Eligibility for Remunerations Received. A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible for benefits. Ref. Sec. 72-1366(d) Idaho Code. (12-1-78)

242. -- 245. (RESERVED).

246. SELF-EMPLOYMENT OR OTHER WORK.

A claimant shall not be entitled to benefits when self-employment is of such size and nature that the operation of it is

an individual's principal duty and working for wages is merely incidental. Ref. Sec. 72-1366(m) Idaho Code. (6-30-94)

01. Potential Employability. A claimant would not be ineligible based upon being self-employed if the self-employment in no way interferes with the claimant's potential employability and work pattern. Ref. Sec. 72-1366(m) Idaho Code. (6-30-94)

02. Occupational Conflicts. Agricultural activities, commercial enterprises, family enterprises, and commission sales work are examples of occupations which may conflict with eligibility for benefits unless the claimant can definitely show he is seeking work and available for suitable work. Ref. Sec. 72-1366(m) Idaho Code. (2-1-85)

03. Reporting Earnings. When reporting earnings, a claimant must report gross earnings from self-employment unless the claimant can prove that certain expenditures, which are not commonly associated with working for wages, were necessary in order to accomplish the work. Such expenditures include, but are not limited to, buying products wholesale for resale, and renting equipment to accomplish a task. Expenditures which are not deductible include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. Ref. Sec. 72-1312(b) and 72-1328(a) Idaho Code. (12-1-84)

04. Remuneration Earned. Remuneration earned must be in employment where an employee-employer relationship exists to satisfy requalification requirements for Extended Benefits. Ref. Sec. 72-1367A(c)(3)(B) Idaho Code. (6-1-84)

247. -- 265. (RESERVED).

266. UNION RELATIONS.

Union rules and requirements DO NOT supersede the State Employment Security law. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

01. Refusal of Work Due to Strike. Benefits shall not be denied to a claimant for refusing employment if the vacancy is due to a strike, lockout, or other labor dispute. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

02. Refusal of Work Due to Membership Requirements. Benefits shall not be denied to a claimant who refuses employment which, as a condition of being employed, requires membership in or resignation from a bona fide labor organization. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

267. -- 275. (RESERVED).

276. WAGES.

Benefits shall not be denied if the wages or other conditions of work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(g)(2) Idaho Code. (12-1-78)

01. Wage Demand. Benefits shall be denied a claimant if he unduly restricts his availability for work by insisting on a wage rate that is materially higher than the prevailing wage for similar work in that area. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

02. Prior Earnings. The claimant's prior earnings and past experience shall be considered by the Department of Labor in a determination of availability for suitable work. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

03. Wages for Services Performed. Wages for services performed, prior to separation, are reportable for the week in which earned. Ref. Sec 72-1366, Idaho Code. (12-1-81)

04. Gratuities or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned. Ref. Sec. 72-1328 and 72-1366 Idaho Code. (12-1-84)

277. -- 305. (RESERVED).

306. LABOR DISPUTE.

A labor dispute is defined as: A controversy with respect to one (1) or more of the following: Wages, hours, working conditions, or right of representation affecting the work or employment of a number of individuals employed for hire which results in a deadlock or impasse between the contending parties. Ref. Sec. 72-1366(g) Idaho Code. (12-1-78)

01. Involvement in a Labor Dispute. A claimant shall not be denied benefits because of a labor dispute if the dispute is not in any way directly connected with the factory, the establishment, or the premises at which the individual is or was last employed. Ref. Sec. 72-1366(g) Idaho Code. (6-30-94)

02. Severed Employee-Employer Relationship. A claimant who, beyond any reasonable doubt, has severed the employee-employer relationship where a labor dispute exists shall not be denied benefits on the basis of that previous relationship. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

03. Merits of Labor Disputes. The Department of Labor shall not make a determination on the merits of a labor dispute or attempt to determine which side is right. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

04. Subsequent Employment. Subsequent employment does not make the claimant eligible for benefits if the labor dispute is still his reason for being unemployed. As long as the claimant intends to return to the employer where the labor dispute exists, his unemployment is due to the labor dispute regardless of any intervening employment. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

05. Burden of Proving Disallowance Factors. The burden of proving nonparticipation, lack of financing and similar factors is upon the claimant who is seeking to avoid the disallowance. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

06. Union Member. The fact that an individual is a union member and paying dues alone does not constitute financing a labor dispute. Nor does the fact that he is not a union member show that he is not financing or participating in the dispute. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

07. Refusal to Cross Picket Line. Voluntary refusal to cross a peaceable picket line to work constitutes participation in the labor dispute. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

08. Picketing Work Site. The act of picketing the work site of a labor dispute constitutes participation in that labor dispute, whether or not payment is made for such services. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

09. Period of Ineligibility. The period of ineligibility applies for the whole of any week in which any part of a claimant's unemployment is due to a labor dispute. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

10. Termination of Labor Dispute. The termination of the period of ineligibility shall be at the end of the calendar week in which the labor dispute no longer exists. The settlement of the dispute shall not automatically make that person eligible for benefits. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

11. Lack of Work. Unemployment shall be deemed due to lack of available, suitable work and not due to a labor dispute if it can be shown that because of the labor dispute the employer's business has fallen off to the extent that he can no longer utilize the services of the claimant due to a drop of business. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

12. Laid off Because of Lack of Work. A claimant laid off because of lack of work from an employer where a labor dispute later occurred shall not be considered unemployed due to a labor dispute. Ref. Sec. 72-1366(j) Idaho Code. (6-30-94)

307. -- 330. (RESERVED).

331. MISCONDUCT DIVISION.

Misconduct that disqualifies a claimant from benefits within the meaning of Idaho Code Section 72-1366(e) must be connected with the claimant's employment and must involve one of the following: (7-1-93)

01. Disregard of Employer's Interest. A willful, intentional disregard of the employer's interest. (6-30-94)
02. Violation of Reasonable Rules. A deliberate violation of the employer's reasonable rules. (6-30-94)
03. Disregard of Standards of Behavior. If the misconduct that is alleged to have occurred involves a disregard of a standard of behavior which the employer has a right to expect of his or her employees, there is no requirement that the claimant's conduct must be found to have been subjectively willful, intentional, or deliberate. The claimant's subjective state of mind is irrelevant. The test for misconduct in "standard of behavior cases" is as follows: Ref. Idaho Code Section 72-1366(e): (6-30-94)
 - a. Whether the claimant's conduct fell below the standard of behavior expected by the employer; and (9-1-93)
 - b. Whether the employer's expectation was objectively reasonable in the particular case. Ref. Idaho Code Section 72-1366(e). (9-1-93)
04. Inability or Ordinary Negligence. Mere inefficiency, unsatisfactory conduct, failure of good performance as the result of inability or incapacity, inadvertencies, isolated instances of ordinary negligence, or good faith errors in judgment or discretion, are not considered misconduct connected with employment. Ref. Sec. 72-1366(e) Idaho Code. (6-30-94)
05. Non-job Related Conduct. If the claimant has been discharged for conduct involving personal, non-job related behavior that has no relationship to the claimant's job performance, the discharge is not for misconduct connected with employment within the meaning of Idaho Code Section 72-1366(e). (6-30-94)
06. Proving Misconduct. The burden of proving employment-related misconduct rests with the employer. (5-1-92)
07. When Notice of Discharge Prompts a Resignation. Where the claimant has resigned after having received a notice of discharge (or lay off due to a lack of work), but before the effective date of that discharge, both "separations" must be considered. The following three elements should be present: (6-30-94)
 - a. The employee must be given notice by the employer of a specific separation date; (6-30-94)
 - b. The employee's decision to quit before the effective termination date must be a consequence of the pending termination; and (6-30-94)
 - c. The voluntary quit must occur a short time prior to the effective termination date. Ref. Sec. 72-1366(e) Idaho Code. (6-30-94)

332. -- 377. (RESERVED).

378. SEXUAL HARASSMENT.

For purposes of Section 72-1366(e), Idaho Code, when a party asserts that sexual harassment was a reason for a claimant's separation from employment, "sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: (7-1-93)

01. Condition of Employment. Submission to such conduct was made either explicitly or implicitly a term or condition of an individual's employment. (6-30-94)
02. Employment Decisions. Submission to or rejection of such conduct by an individual was used as the basis for employment decisions affecting such individual. (6-30-94)

03. Interference with Performance/Work Environment. Such conduct had the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (6-30-94)

379. -- 425. (RESERVED).

426. SUITABLE WORK.

The claimant has the responsibility to apply for and accept suitable work. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

01. Citizenship or Residence Requirements. Restrictions on citizenship or residence requirements of the employer shall be "good cause for failure to apply for work" if the worker does not meet the qualifications. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

02. Moral Objections. A claimant shall not be denied benefits for failure to apply for or accept employment if the employment is not suitable because of the claimant's serious objection to working with intoxicating liquors, or working in places of bad repute or for immoral purposes. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

03. Travel Distance. A claimant shall not be denied benefits if the travel distance to work is excessive or unreasonable. A claimant shall be denied benefits if he fails to apply for and accept suitable work within a commuting area similar to other workers in his occupation. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

04. Removal From Locale. A claimant who removes himself to a locality where suitable work is not available shall be ineligible for benefits. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

05. Failure to Report for Suitable Work. A claimant failing to report to an employment office when so directed and/or failing to follow explicit instructions or directions for applying for suitable, available work shall be denied benefits. Ref. Sec. 72-1366(a)(2) Idaho Code. (6-30-94)

06. Unable to Meet Government Requirements. A claimant who cannot conform to government requirements (civil service rating, permits, and licenses) within a reasonable period of time shall have good cause for refusing that opportunity to work. Ref. Sec. 72-1366(d) Idaho Code. (6-30-94)

07. Refusal Due to Age/Lack of Experience. A claimant who refuses available work because of inexperience due to lack of age or extraordinary risks to himself due to physical condition because of increased age shall not be denied benefits based on this refusal. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

08. Claimant Conduct. A claimant who conducts himself so as to bring about a withdrawal of a job offer or a termination after a job offer and acceptance shall be denied benefits. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

09. Failure to Report. A claimant who fails to report for an employment interview or fails to report to work after accepting employment, without good cause, shall be denied benefits. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

10. Failure/Refusal to Meet Employers Requirements. A claimant's refusal or inability to meet the employer's employment requirements must be for good cause to be eligible for benefits. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

11. Failure to Return to Work. A claimant who has been laid off, but fails to return to work on the date specified by the employer at the time of layoff, or who fails to respond to a callback after a layoff, shall be considered to have refused an offer of work. Whether the work was suitable and whether there was good cause for the refusal will be decided on the merits of the case. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

12. Working Conditions. Employment shall be declared suitable if the working conditions are as favorable as those prevailing for similar work in the same locality. Ref. Sec. 72-1366(g)(2) Idaho Code. (6-30-94)

13. Offer of Work. A claimant who refuses to apply for or accept available, suitable work before or after a claim is filed shall be denied benefits. The job offer must be genuine and with the claimant's knowledge. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

14. Personal Affairs. A claimant who refuses to apply for or accept available, suitable work because of personal affairs shall be denied benefits unless those affairs are so reasonably compelling that an ordinarily prudent individual would have done so under the same circumstances. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

15. Prospect of Other Work. A claimant shall not be denied benefits for failing to accept employment if he has excellent prospects for more suitable work with his former employer and in his regular occupation. Ref. Sec. 72-1366(f) Idaho Code. (6-30-94)

427. -- 475. (RESERVED).

476. VOLUNTARY QUIT.

The burden of proof lies with the claimant to establish good cause in connection with the employment to be eligible for benefits. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

01. Moral or Ethical Quit. A claimant who leaves a job because of a reasonable and serious objection on moral or ethical grounds to work requirements of the employer and is otherwise eligible, shall not be denied benefits. Ref. Sec. 72-1366(e) Idaho Code. (12-1-78)

02. Unrelated Discharge Prior to Pending Resignation. A claimant, discharged before a pending resignation has occurred, for reasons not related to the pending resignation, shall have his eligibility determined on the basis of the discharge, not on the pending resignation. Ref. Sec. 72-1366(e) Idaho Code. (12-1-78)

03. When Notice of Resignation Prompts a Discharge. Where the claimant had given notice of a pending resignation, but was discharged before the effective date of the resignation, both "separations" must be considered. The following three elements should be present: (2-1-94)

- a. The employee must have given notice to the employer of a specific separation date; (2-1-94)
- b. The employer's decision to discharge before the effective date of resignation must be a consequence of the pending separation; and (2-1-94)
- c. The discharge must occur a short time prior to the effective resignation date. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

04. Good Cause. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

a. Quit Due to Health or Physical Condition. A claimant who quits employment because the claimant's health or physical condition makes it impossible to continue to perform the duties of the job shall be deemed to have quit work with good cause connected with employment. (2-1-94)

b. Cause Connected With Employment. For purposes of Idaho Code Section 72-1366(e), to be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

05. Quit for Permanent Work or for Increase in Work Hours. A claimant who quits a temporary job for a permanent job or who quits part-time employment for employment with an increase in the number of hours of work shall be deemed to have quit work with good cause connected with employment. Ref. Sec. 72-1366(e) Idaho Code.

(7-1-97)

06. Quit or Retirement During Employer Downsizing. An individual who has continuing suitable work available and who voluntarily elects to retire or to terminate employment during a period of reorganization or downsizing will be considered to have voluntarily quit the employment for personal reasons. (1-25-95)

477. -- 485. (RESERVED).

486. RIGHT TO CLAIM BENEFITS, PROTECTION OF.

In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim for unemployment insurance and to receive in writing a decision regarding his insured status. Ref. Sec. 72-1366(a)(1) Idaho Code. (9-1-73)

487. -- 490. (RESERVED).

491. DISCLOSURE OF INFORMATION.

The benefit rights of any individual or information obtained when individuals file a claim for benefits shall be confidential and shall not be disclosed or open to public inspection in any manner except as provided for by law. Ref. Sec. 72-1342 Idaho Code. (12-1-78)

492. VALID CLAIM FOR BENEFITS.

For purposes of Section 72-1327A, Idaho Code, a claim for benefits is not valid unless filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (11-1-90)

493. EFFECTIVE DATE OF NEW CLAIMS.

A new claim for unemployment insurance benefits shall be made effective Sunday of the week in which it is filed unless backdated due to local office scheduling problems or filed on an itinerant basis. Ref. Sec. 72-1365(c). (6-30-94)

494. -- 495. (RESERVED).

496. CLAIMS FOR BENEFITS, DELAYED FILING.

When any claims taking office has reason to believe there will be more claimants than can be cared for on any given day, an appointment slip must be used to adjust the claim load for the filing of new claims. Appointment slips shall be issued to potential claimants who cannot be served on the date contact is first made with the office. A claimant shall not forfeit any benefit rights providing, however, that his subsequent claim is filed on the day assigned. Ref. Sec. 72-1365(c) Idaho Code. (9-1-73)

497. EFFECTIVE DATE OF INTINERANT/MAILED CLAIM FOR BENEFITS.

A claim for benefits filed at an itinerant point on the first regular itinerant visit after separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If filed at a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. If a claimant for benefits has been granted permission to file his initial claim by mail, and he completes and returns the claim form within seven (7) days of the date the form was mailed from the local office, the effective date shall be the Sunday preceding the date of his original request to file a claim for benefits. If the benefit claimant fails to mail within the seven (7) day period his claim for benefits, and mail facilities would have permitted such mailing within the period, the effective date shall be the Sunday preceding the date he mailed the claim to the local office. Ref. Sec. 72-1365(c) Idaho Code. (9-1-73)

498. -- 500. (RESERVED).

501. ESTABLISHING - CHANGING - DISCONTINUING AN ITINERANT POINT.

Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such service of inauguration, change, or discontinuance shall be conspicuously posted

and public notification placed in a daily or weekly newspaper of general distribution for the community affected two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1365(c) Idaho Code. (9-1-73)

502. -- 505. (RESERVED).

506. SIGNATURES OF ILLITERATES AND WITNESSES THERETO.

Whenever any benefit claimant is unable to write his name, he shall instead use the mark (X). The mark must be witnessed by a representative of the Department or by an individual who shall enter immediately after the mark (X) the words "His Mark." Immediately following, the name of the benefit claimant shall be printed and thereafter followed by the signature of the Department representative or individual who witnesses the mark. Ref. Sec. 72-1365(c) Idaho Code. (9-1-73)

507. -- 510. (RESERVED).

511. REGISTRATION FOR WORK.

Registration for employment is required and, unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the unemployed worker is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(a)(2) Idaho Code. (9-1-73)

512. -- 515. (RESERVED).

516. CLAIM FOR BENEFITS AFTER A DETERMINATION OF INELIGIBILITY.

An individual, previously determined to have been ineligible for unemployment insurance benefits, shall bear the responsibility and burden of proving that he has satisfied the disqualification imposed. In evidence of requalifying wages, this responsibility shall require, but is not limited to, the name of the employer, the mailing address, dates of employment, type of employment performed and gross earnings. Ref. Sec. 72-1366(e) Idaho Code. (12-1-78)

517. -- 520. (RESERVED).

521. OBTAINING SEPARATION INFORMATION.

Unless separation information is provided by other means, such as a mass layoff list, a notice of the filing and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until wages received by the claimant equal or exceed sixteen (16) times his weekly benefit amount. Further, it shall be the responsibility of the person claiming benefits to provide the Department of Labor with the employer's name, correct mailing address, dates of employment, type of employment performed, and gross earnings from each such employment. Ref. Sec. 72-1366(a),(1),(e) and (n) Idaho Code. (2-1-87)

522. -- 525. (RESERVED).

526. REBUTTAL PROCEDURES.

Whenever any information is provided in response to a claim for unemployment insurance benefits, and such information contradicts a statement made previously, all interested parties shall be afforded opportunity for rebuttal. Ref. Sec. 72-1368(d) Idaho Code. (9-1-73)

527. -- 535. (RESERVED).

536. PREDETERMINATION INTERVIEW.

Any interested party to a claim for unemployment insurance benefits shall be afforded the opportunity to appear and give testimony at a predetermination interview to be held no later than the second week after the week in which the claim is effective. Ref. Sec. 72-1368(d) Idaho Code. (11-1-90)

537. -- 540. (RESERVED).

541. TAKING NEW CLAIMS BY MAIL.

The claims examiner shall grant permission to a claimant to file an initial claim for benefits by mail when in person filing causes undue hardship. Ref. Sec. 72-1365(c) Idaho Code. (9-1-73)

542. -- 545. (RESERVED).

546. APPLICATION FOR WORK.

All claimants for unemployment insurance benefits shall be required to file or renew an employment application. Ref. Sec. 72-1366(a)(2) Idaho Code. (9-1-73)

547. -- 550. (RESERVED).

551. TAKING AN ADDITIONAL OR REOPENING CLAIM.

A benefit claim series shall be re-established, subsequent to the filing of a new claim, by the filing of either an additional or reopening claim. Ref. Sec. 72-1368(a) Idaho Code. (12-1-78)

01. Additional or Reopened Claim. An additional or reopened claim shall be effective Sunday of the first week in which a claimant contacts a local office to establish such claim. Ref. Sec. 72-1368(a) Idaho Code. (11-1-90)

02. Re-established Claim. A claim must be re-established when a claimant fails to report or reports excessive earnings for two (2) or more consecutive weeks. Claims shall be re-established as follows: (6-30-94)

a. If the duration of the break is two (2) weeks or longer, the claim must be re-established by filing a reopen or additional claim. (6-30-94)

b. If the duration of the excessive earnings report(s) is two (2) weeks, the claim may be automatically re-established if the claimant notifies the Job Service Office at the time of or prior to filing the report for the second consecutive excessive earnings week that he/she has become unemployed. If a claimant does not inform the Job Service Office at the time of or prior to filing the report for the second consecutive excessive earnings week that he/she has become unemployed, the claim must be re-established by filing an additional claim. Ref. Sec. 72-1368(a) Idaho Code. (6-30-94)

03. Excessive Earnings Week. An excessive earnings week is a week in which allocable wages amount to more than one and one-half (1 1/2) times the claimant's weekly benefit amount. (6-30-94)

04. Additional/Reopened Claim Form. The reopen/additional claim form may be mailed or personally delivered to a Job Service Office. The claim must be filed during the week in which the claimant becomes unemployed and/or wants to re-establish the claim. The claim may be backdated to the immediate preceding two weeks if the Department of Labor failed to provide timely notice of the requirement to reopen. (6-30-94)

05. Backdated Claim. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same or the week following the week in which the initial claim is filed. (6-30-94)

552. -- 556. (RESERVED).

557. CLAIMS PENDING UNDER ANY OTHER UNEMPLOYMENT INSURANCE PROGRAMS.

When a claim for benefits is pending under any other state unemployment insurance program, a continued claim filed under the Idaho law for the same period of time shall not be processed for payment until such time that a decision has been issued as to the eligibility or ineligibility under the other state unemployment insurance program. Ref. Sec. 72-1366(k) Idaho Code (11-1-90)

558. EMERGENCY UNEMPLOYMENT COMPENSATION.

01. Computing Monetary Entitlement. For purposes of computing monetary entitlement for emergency unemployment compensation under the Unemployment Compensation Amendments of 1992, all three methods specified in Section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 will be used. In order to be monetarily eligible, a claimant must have base period employment or earnings sufficient to meet one of the following tests: (10-1-92)

- a. Twenty (20) weeks of full-time covered employment; (10-1-92)
- b. Total wages in covered employment of at least one and one-half (1 1/2) times the high quarter wages; or (10-1-92)
- c. Total wages in covered employment of at least forty (40) times the most recent weekly benefit amount. Ref. Sec. 72-1341(a), Idaho Code. (10-1-92)

559. -- 560. (RESERVED).

561. VERIFICATION OF EARNINGS ON CONTINUED CLAIMS.

The Department of Labor shall reserve the right to verify earnings and/or reason for separation as reported by benefit claimants on weekly certifications filed for payment. Ref. Sec. 72-1368(a) Idaho Code. (12-1-78)

562. -- 565. (RESERVED).

566. CONTINUING A CLAIM DURING APPELLATE PROCEDURES.

While a decision of eligibility on a claim for benefits is pending at any appellate stage of review, claimants shall be advised to continue the regular filing of claims for benefits during any week in which they may be eligible to receive all or some compensation. Ref. Sec. 72-1368(d) Idaho Code. (6-30-94)

567. -- 570. (RESERVED).

571. PAYMENT OF BENEFITS TO SURVIVORS.

Upon the death of a benefit claimant who has completed a compensable period prior to his death, distribution of benefits due him shall be made in accordance with Section 72-1370 Idaho Code provided, however, that if there is no surviving spouse or dependent child or children to receive benefits due such deceased claimant, such benefits shall become payable to the administrator of the estate. An administrator for the estate can include children other than dependent children, surviving parents, or the named personal representative in case of a will or the personal representative appointed by a court. Ref. Sec. 72-1370 Idaho Code. (6-30-94)

572. -- 575. (RESERVED).

576. REISSUANCE OF LOST, DESTROYED OR FORGED CHECKS.

Whenever checks are lost, stolen, destroyed, or forged, the benefit claimant shall be issued new checks upon proper presentation of the facts and submission of an affidavit for issuance of a new check. Ref. Sec. 72-1368(a) Idaho Code. (12-1-78)

- 01. Reissuance of Stolen Checks. If a claimant knows who has taken the check, he must provide evidence that he has taken available legal steps and been unsuccessful in recovering the check before the Department will consider reissuance. Ref. Sec. 72-1368(a) Idaho Code. (6-30-94)

577. -- 580. (RESERVED).

581. AFFIDAVIT FOR ISSUANCE OF A NEW CHECK.

Affidavits filed for the issuance of a new check shall be signed either before a notary public or before an authorized representative of the Department of Labor. Any waiting period will be waived upon completion of an affidavit and with the submission of remaining portions of the partially destroyed or mutilated check. Ref. Sec. 72-1368(a) Idaho Code. (12-1-78)

582. -- 590. (RESERVED).

591. NON-MONETARY DETERMINATION AND REQUEST FOR REDETERMINATION.

A non-monetary determination shall be made in writing and delivered to the interested parties when there is a question as to whether or not the claimant meets the personal eligibility requirements listed under Section 72-1366 of the Idaho Employment Security Law. Ref. Sec. 72-1368(c) Idaho Code. (9-1-81)

01. Interested Party. An interested party to a benefit claim who is dissatisfied with a determination shall be entitled to a redetermination, or appeal, provided a request therefore is filed within fourteen (14) days after service of notice of such determination. Ref. Sec. 72-1368(a), (c), (d), (e), Idaho Code. (6-30-94)

02. Redetermination Request. A request for redetermination shall be in writing, signed by an interested party or representative. It must include an explanation as to why the protesting party disagrees with the original determination, and include any additional evidence the protesting party has to present. The request may be in letter form or on forms prescribed and approved by the director. The request may be delivered in person or mailed to the Department of Labor. A request for redetermination delivered in person shall be considered filed when received by a representative of the Department of Labor. A request for redetermination that is mailed shall be considered filed as of the date of the postmark on the envelope. A redetermination request filed by fax shall be considered timely if the evidence supports that it was submitted by the last date to protest. Ref. Sec. 72-1368(d) Idaho Code. (6-30-94)

03. Redetermination by a Claims Examiner. A redetermination may be made by the claims examiner who made the original determination or by another claims examiner. Ref. Sec. 72-1368(d) Idaho Code. (6-30-94)

04. Bypass Redetermination Request. By delegated authority, a Redetermination Examiner may bypass a request for redetermination to the Appeals Bureau when: (6-30-94)

a. Conflicting evidence cannot be resolved without giving the interested parties the opportunity for cross-examination; and/or (6-30-94)

b. No new non-cumulative evidence has been submitted. Ref. Sec. 72-1368(d) Idaho Code. (6-30-94)

05. Issuance of Corrected Monetary Determination. The Department of Labor shall issue a corrected monetary determination when there is a change in base period wages which occurs within a year from the date of the last monetary determination based on such base period wages. Ref. Sec. 72-1367 and 72-1368(f) Idaho Code. (6-30-94)

592. -- 600. (RESERVED).

601. MANDATORY FILING, MONETARY ELIGIBILITY.

All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1368(a) Idaho Code. (9-1-73)

602. TOTAL TEMPORARY DISABILITY ALTERNATE BASE PERIOD.

The alternate base period provision shall apply only if the claimant cannot establish monetary eligibility by using the regular base period consisting of the first four (4) of the last five (5) completed calendar quarters immediately preceding the beginning of a benefit year. Ref. Sec. 72-1306(b), Idaho Code. (6-30-94)

603. -- 605. (RESERVED).

606. REGISTRATION FOR WORK & REPORTING REQUIREMENTS - INTERSTATE CLAIMANTS.

Interstate claimants shall be required to register for work in exactly the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants at either the local office or an itinerant point. Ref. Sec. 72-1366(a)(2) Idaho Code. (9-1-73)

607. -- 610. (RESERVED).

611. MAIL CLAIMS, INTERSTATE CLAIMANTS.

Any claim filed by mail for an interstate claimant shall be accepted in the same manner and under the same conditions for which mail claims are accepted from intrastate claimants. Ref. Sec. 72-1366(a)(2) Idaho Code. (9-1-73)

612. -- 620. (RESERVED).

621. DETERMINATION OF CHARGEABILITY.

The Department will issue a determination of chargeability to the major base period employer pursuant to 72-1351(b) and the right to protest that determination within fourteen (14) days of the date of service shall be afforded the chargeable employer. Ref. Sec. 72-1351(b) Idaho Code. (6-1-82)

01. Special Redetermination. The director may make a special redetermination of a chargeability determination whenever it is determined that an error in application of law or policy has occurred on the original determination. Such special redetermination must be made within one (1) year from the date of the original determination and the right to protest the special determination shall be afforded all interested parties as provided in Section 72-1323. Ref. Sec. 72-1351(b) Idaho Code. (6-1-82)

622. -- 625. (RESERVED).

626. REQUIREMENT TO PROVIDE INFORMATION.

Any individual wishing to claim benefits shall file a claim through the Job Service Office serving his area of residence and shall provide the claims taking office with his legal name; his address where mail is delivered to him; his place of last employment, the employer's correct address, and all other employment in the past eighteen (18) months; his social security number; the reason for separation from all applicable employers; his plans for finding other employment at the earliest possible time. Failure to provide such essential information may result in ineligibility for benefits until the pertinent facts are provided. Ref. Sec. 72-1366(1) Idaho Code. (6-1-82)

627. -- 630. (RESERVED).

631. CLAIMANT REPORTING REQUIREMENTS.

Each claimant shall report weekly or biweekly for benefits as directed. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(a)(2) Idaho Code. (7-1-84)

01. Timely Reports. Reports filed in person at a Job Service Office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. Ref. Sec. 72-1366(a)(2) Idaho Code. (6-30-94)

02. Mailed Reports. Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. Ref. Sec. 72-1366(a)(2) Idaho Code. (6-30-94)

03. Reporting in Person. A claimant reporting in person must hand the report to an authorized employee of the Job Service or must place it in a receptacle identified for that purpose. The Department of Labor cannot accept reports deposited under or through the doors of the office. Ref. Sec. 72-1366(a)(2) Idaho Code. (6-30-94)

04. Evidence of Missing Report. When a claimant establishes by a preponderance of the evidence that a missing report has been personally delivered to the Job Service office or mailed within the filing period, a replacement report shall be considered timely. In order to meet this burden of proof, the claimant's evidence must be credible and corroborated. Ref. Sec. 72-1366(a)(2) Idaho Code. (6-30-94)

632. -- 670. (RESERVED).

671. CLAIM CANCELLATION.

At the discretion of the director, a valid claim may be cancelled upon request of the claimant, if such request is made within fourteen (14) days of the date of the last monetary determination or redetermination issued to the claimant. Ref. Sec. 72-1327 A Idaho Code. (11-1-91)

672. -- 675. (RESERVED).

676. STOPPING PAYMENT.

Payment of benefits may be delayed only when an issue arises and an interview is scheduled for the claimant. After the interview, a determination must be promptly issued for benefits paid or denied in accordance with that determination. Payment of benefits shall not be delayed for purposes of conducting an investigation prior to the interview. Ref. Sec. 72-1368(c) Idaho Code. (6-30-94)

677. -- 680. (RESERVED).

681. NOTICE OF SEPARATION.

Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after having been notified by the Department of Labor that an employee has filed a claim for benefits listing him as his last employer, shall submit a report of the reasons for the loss of employment on a form furnished for this purpose by the Department whenever such employee has left his employment voluntarily, or is separated from his employment due to misconduct, or because of strike, lockout, or other industrial controversy, or has been separated for any other reason except lack of available work. The statement shall be given in accordance with instructions printed on such form within seven (7) days from the date of mailing. The form must be signed by the employer, or on the employer's behalf by someone having personal knowledge of the facts therein stated. Ref. Sec. 72-1333 Idaho Code. Those provisions set forth in the Interstate Claimstaking Policy and Procedure Manual of the United States Department of Labor are hereby incorporated in full by references. Ref. Sec. 72-1333(b) Idaho Code. (12-1-78)

682. -- 999. (RESERVED).