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**IDAPA 09
TITLE 01
CHAPTER 30**

09.01.30 - RULES OF THE BENEFITS BUREAU

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 72-1333(2), Idaho Code. (3-19-99)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 09.01.30, "Rules of the Benefits Bureau". These rules govern claims for unemployment insurance benefits. (3-19-99)

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 Main Street, Boise, Idaho, 83735. Brochures explaining various provisions of Idaho's Employment Security Law are also available at the above address. (3-19-99)

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of Section 72-1368, Idaho Code and IDAPA 09.01.06, "Rules of the Appeal Bureau". (3-19-99)

004. – 009. (RESERVED).

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor. (3-19-99)

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

02. Administrative Office. The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (3-19-99)

03. Appealed Claim. An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

04. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average 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 covered employers. (3-19-99)

05. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government employment) for the preceding calendar year, 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). (3-19-99)

06. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

07. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

08. Claim. An application for unemployment insurance or "benefits". (3-19-99)

- 09. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)
- 10. Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)
- 11. Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)
- 12. Continued Claim.** An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)
- 13. Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned twelve (12) times his weekly benefit amount. (3-19-99)
- 14. Full-Time Employment.** A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)
- 15. 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. (3-19-99)
- 16. 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. (3-19-99)
- 17. Intrastate Claim.** A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)
- 18. Itinerant Point.** A place where 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. (3-19-99)
- 19. Liability Determination.** A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)
- 20. Local Office.** A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)
- 21. Mail Claim.** A claim filed by mail rather than in person at a local office. (3-19-99)
- 22. Monetary Determination.** A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)
- 23. New Claim.** The first initial claim made in a benefit year. (3-19-99)
- 24. Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)
- 25. Regular Claim.** A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)
- 26. Telephone Claim.** A claim filed by telephone rather than in person at a local office. (3-19-99)
- 27. Total Benefit Amount.** The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

28. 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. (3-19-99)

29. Weekly Benefit Amount. The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

011. -- 099. (RESERVED).

100. ABLE TO WORK.

“Able to work” is defined as the physical and mental ability to perform work under conditions ordinarily existing during a normal workweek. It does 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(4), Idaho Code. (3-19-99)

01. 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 he has filed an initial claim, 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) his weekly benefit amount and cannot be accepted because of the illness or disability, the claimant shall be ineligible for benefits. (3-19-99)

02. Able To Work Part-Time. A person who is able to work only part of the workday or part of the workweek is not considered “able to work” for the purposes of Section 72-1366(4), Idaho Code. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. (3-19-99)

03. Disability Compensation. A claimant’s receipt of disability compensation shall not in itself establish that he is unable to work or unavailable for work, even though the payee has been declared totally disabled. (3-19-99)

04. Illness Provision. A person who claims benefits under the illness provision must remain available for local office job referral, however, he may leave the area for treatment of the illness and continue to be eligible under the illness provision. The claimant may continue reporting through the local office near his residence. If suitable work becomes available and is refused or missed because of the illness, or the claimant is unable to respond to a referral because of the illness, the claimant shall be ineligible if the work would have provided wages greater than one-half (1/2) his weekly benefit amount. (3-19-99)

05. Illness Provision As Applied To Transitional Or Reopened Claim. Receipt of benefits during the same illness continues throughout a spell of unemployment, even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment. (3-19-99)

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 claimants who suffer from other types of illness or disability. (3-19-99)

07. Withdrawing From Labor Market Because Of Illness. A claimant who withdraws from the labor market because of illness or injury prior to filing a claim is not eligible until he is able to work and available for work. (3-19-99)

101. -- 124. (RESERVED).

125. ALIEN ELIGIBILITY.

01. Alien Eligibility. Benefits shall not be payable based on services performed by an alien unless the alien 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 at the time the services were performed. Ref. Sec. 72-1366(19), Idaho Code. (3-19-99)

02. Benefit Eligibility. To be eligible for benefits, an alien must fall within one (1) of the following three (3) categories 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(4), (19), Idaho Code. (3-19-99)

a. 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. (3-19-99)

b. Performing Services. The category of individuals who are “lawfully present for purposes of performing services” includes three (3) groups of aliens: (3-19-99)

i. Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (3-19-99)

ii. 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 (3-19-99)

iii. Other aliens with Immigration and Naturalization Service authorization to work in the United States regardless of their status. (3-19-99)

c. 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: (3-19-99)

i. Refugees and parolees, as identified in the Immigration and Nationality Act; (3-19-99)

ii. Aliens presumed by the Immigration and Naturalization Service to be lawfully admitted for permanent residence; and (3-19-99)

iii. 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. (3-19-99)

126. -- 149. (RESERVED).

150. AMERICANS WITH DISABILITIES ACT (ADA).

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 or unavailable for work for so long as he is able to perform some work and remains available for work to the full extent of his ability. Claimants meeting the above criteria shall be exempt from complying with eligibility requirements found elsewhere in these Rules which would be in conflict with the intent of this provision. (3-19-99)

01. Availability Requirement. For purposes of this rule, a claimant with a disability will be considered as having complied with the requirement of being available for work if he is willing to work the maximum number of hours that he has established through medically verifiable evidence that he is able to work. (3-19-99)

02. Full-Time Employment. An individual claiming benefits under this provision will be considered

fully employed and ineligible to receive benefits in any week that the individual works the maximum number of hours that he is able to work. (3-19-99)

03. Long Term. For purposes of this rule, “long term” is defined as twelve (12) months or longer. (3-19-99)

151. -- 174. (RESERVED).

175. AVAILABLE FOR WORK.

The phrase “available for work” is defined as a state of mind which involves a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one’s services in the claimant’s 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(4), Idaho Code. (3-19-99)

01. Alternate Permanent 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. (3-19-99)

02. Availability Requirements. The type of work for which the claimant is available must exist in the claimant’s area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-19-99)

03. Child Care. Child care must be arranged so as not to restrict a claimant’s availability for work or for seeking work. (3-19-99)

04. Compelling Personal Circumstances. A claimant must be available for the whole of the workweek 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 workweek. To be “compelling”, the circumstances must be caused by factors over which the claimant has no control. (3-19-99)

05. Conscientious Objection. No person shall be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-19-99)

06. Contract Obligation. A person who is bound by a contract which prevents him from accepting other employment shall not be eligible for benefits. (3-19-99)

07. Distance To Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-19-99)

08. Domestic Circumstances. A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant’s availability for work or for seeking work. (3-19-99)

09. Equipment. Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant’s availability for work, unless he will accept other work. (3-19-99)

10. Evidence. A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these rules. (3-19-99)

11. Experience Or Training. A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-19-99)

12. Full-Time/Part-Time Work. A claimant must be available for a full workweek and a full, normal workday to be eligible for benefits. A claimant restricting his availability to only part-time work shall be ineligible for benefits. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. Ref. Sec. 72-1366(6), Idaho Code. (3-19-99)

- 13. Incarceration/Work Release.** A claimant who is incarcerated for any part of the claimant's normal workweek 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. (3-19-99)
- 14. Jury Duty/Subpoenas.** A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period. A claimant is not ineligible if he must refuse work because of the jury duty or subpoena. (3-19-99)
- 15. 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. (3-19-99)
- 16. Moving To Remote Area.** A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-19-99)
- 17. Prospects For Work.** A claimant who is unemployed for a long period of time is expected to lower his expectations for employment and become available for work which may not have been previously considered suitable. (3-19-99)
- 18. Public Official.** A public official who receives pay and performs "full-time" service is not unemployed or 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. 72-1312(1). (3-19-99)
- 19. Public Service.** Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-19-99)
- 20. Questionable Availability.** A claimant must be notified of his questionable availability status and given an opportunity to provide proof of his availability before a determination is made on the issue. (3-19-99)
- 21. Restricting Work To Within The Home.** A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-19-99)
- 22. School Attendance 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 for 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 training. (3-19-99)
- 23. Temporary Absence From Local Labor Market To Seek Work.** 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 workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market. (3-19-99)
- 24. 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. (3-19-99)
- a. **Shift Restrictions.** A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (3-19-99)
- 25. Transportation Difficulties.** Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-19-99)
- 26. Unreasonable Restrictions On Working Conditions.** A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-19-99)
- 27. Vacation.** A person on a vacation approved by his employer during time when work is available is

not considered available for work nor eligible for benefits. (3-19-99)

28. Wages. A claimant shall not be ineligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (3-19-99)

a. **Demanding Higher Wages.** A claimant shall be ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-19-99)

b. **Prior Earnings.** The claimant's prior earnings and past experience shall be considered in determining whether he is available for suitable work. (3-19-99)

29. Waiver Of One-Year Training 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(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (3-19-99)

a. **Financial Plan.** The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-19-99)

b. **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. (3-19-99)

c. **Duration of Training.** At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-19-99)

d. **Denial.** No claimant shall be denied a waiver of the one (1) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (3-19-99)

176. -- 199. (RESERVED).

200. CANCELLING CLAIMS.

Upon the written request of a claimant, a claim may be canceled at any time, provided that the claimant did not misrepresent or fail to report a material fact in making the claim and the claimant has repaid any benefits received on the claim, unless the benefits received will be offset from a new claim the claimant is filing. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

201. -- 224. (RESERVED).

225. DECEASED CLAIMANTS.

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 to the surviving spouse or, if none, to the dependent child or children. If there is no surviving spouse nor dependent child or children, the benefits shall become payable to the administrator of the estate. An administrator of the estate may include children other than dependent children, surviving parents, the personal representative named in a will, or the personal representative appointed by a court. Ref. Sec. 72-1370, Idaho Code. (3-19-99)

226. -- 249. (RESERVED).

250. DETERMINATIONS/APPELLATE PROCESSES.

01. Chargeability Determination. The Department will issue a determination of chargeability to the major base period employer and include the right to protest the determination within fourteen (14) days of the date of service. Ref. Sec. 72-1351(2), Idaho Code. (3-19-99)

02. Continuing A Claim During Appellate Procedures. While a decision concerning eligibility on a claim is pending at any appellate stage of review, claimants shall be advised to continue the regular filing of claims during any week in which they may be eligible to receive benefits. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

03. Corrected Monetary Determination. The Department 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, 72-1368(4), Idaho Code. (3-19-99)

04. Non-Monetary Determination. A non-monetary determination shall be made in writing and served on the interested parties when there is an issue as to whether a claimant meets the personal eligibility conditions of Section 72-1366, Idaho Code. Ref. Sec. 72-1368(3), Idaho Code. (3-19-99)

05. Rebuttal Procedure. Whenever any information is provided in response to a claim, and the information contradicts a statement made previously, all interested parties shall be given an opportunity for rebuttal. Ref. Sec. 72-1368(3), Idaho Code. (3-19-99)

06. Reestablishing Eligibility After A Determination Of Ineligibility. An individual who previously was found ineligible for benefits has the burden of proving he has reestablished his eligibility by having obtained bona fide work and received wages therefor in an amount of at least twelve (12) times his weekly benefit amount. Evidence of requalifying wages includes, but is not limited to, the name of the employer, the mailing address, the dates of employment, the type of employment performed, and the claimant's gross earnings. Ref. Sec 72-1366(14), Idaho Code. (3-19-99)

251. -- 274. (RESERVED).

275. DISCHARGE.

A claimant who has been discharged for misconduct in connection with his employment is ineligible. Ref. Sec. 72-1366(5), Idaho Code. (3-19-99)

01. Burden Of Proof. The burden of proving that a claimant was discharged for employment-related misconduct rests with the employer. (3-19-99)

02. Disqualifying Misconduct. Misconduct that disqualifies a claimant for benefits must be connected with the claimant's employment and involve one of the following: (3-19-99)

a. Disregard of Employer's Interest. A willful, intentional disregard of the employer's interest. (3-19-99)

b. Violation of Reasonable Rules. A deliberate violation of the employer's reasonable rules. (3-19-99)

c. Disregard of Standards of Behavior. If the alleged misconduct involves a disregard of a standard of behavior which the employer has a right to expect of his employees, there is no requirement that the claimant's conduct be 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: (3-19-99)

i. Whether the claimant's conduct fell below the standard of behavior expected by the employer; and (3-19-99)

ii. Whether the employer's expectation was objectively reasonable in the particular case. (3-19-99)

03. Inability To Perform 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. (3-19-99)

04. Non-Job Related Conduct. If the claimant has been discharged for conduct involving personal, non-job related behavior, the discharge is not for misconduct connected with employment. (3-19-99)

05. When Notice Of Discharge Prompts A Resignation. If a claimant has resigned after receiving a notice of discharge (or lay off due to a lack of work), but before the effective date of the discharge, both “separations” must be considered. The following three (3) elements should be present for both actions to affect the claimant’s eligibility: (3-19-99)

- a. The employee was given notice by the employer of a specific separation date; (3-19-99)
- b. The employee’s decision to quit before the effective date of the termination was a consequence of the pending separation; and (3-19-99)
- c. The voluntary quit occurred a short time prior to the effective date of the termination. (3-19-99)

276. -- 324. (RESERVED).

325. 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 or term. Ref. Sec. 72-1366(17)(a), (b), (c), (d), Idaho Code. (3-19-99)

01. 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: (3-19-99)

- a. The circumstances under which the claimant would be employed are not within the control of the educational institution; and (3-19-99)
- b. The educational institution does not provide evidence that such an individual normally would perform services the following academic year. (3-19-99)

02. Reasonable Assurance. “Reasonable assurance” of continuing employment exists when an educational institution or service agency provides an oral or written statement to the Department 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. (4-5-00)

03. Reasonable Assurance Later Given. A claimant who initially has been determined not to have a reasonable assurance of continuing employment, will subsequently become disqualified for benefits under Sections 72-1366(17)(a), (b), or (c), Idaho Code, when an educational institution or service agency gives the claimant such reasonable assurance. (3-19-99)

04. Retroactive Payments. As provided in Section 72-1366(17)(b), Idaho Code, retroactive payment of benefits will be made to claimants who were denied solely by reason of having reasonable assurance of continuing employment and who were not offered an opportunity to perform services in the second school year or term. Such individuals must file a written application for the retroactive payment with the Department no later than thirty (30) days after the beginning of the second school year or term or retroactive payment will not be made. In addition, the claimant must provide written evidence from the employer who previously provided reasonable assurance of continuing work, that the claimant was not offered an opportunity to return to work in the second of two (2) successive school years or terms. (3-19-99)

05. Under Contract, But Between School Terms. 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. (3-19-99)

326. -- 349. (RESERVED).

350. EXTENDED BENEFITS.

Ref. Sec. 72-1367A(3)(d), Idaho Code.

(3-19-99)

01. Evidence Of Employment For Extended Benefits. Satisfactory evidence that an individual's prospects for obtaining work in his customary occupation within a reasonably short period includes: (3-19-99)

a. A letter signed by a prospective employer giving assurances of work within the next four (4) weeks;
or (3-19-99)

b. A verifiable, written statement by the claimant that he will have work within the next four (4) weeks. (3-19-99)

02. Remuneration Earned. Remuneration earned must be in employment where an employee-employer relationship exists to satisfy requalification requirements for Extended Benefits. (3-19-99)

351. -- 374. (RESERVED).

375. FULLY EMPLOYED/NOT UNEMPLOYED.

Ref. Sec. 72-1312(1), Idaho Code.

(3-19-99)

01. Excessive Earnings Week. An excessive earnings week is a week in which the claimant's wages allocable to that week are more than one and one-half (1-1/2) times the claimant's weekly benefit amount. (3-19-99)

02. 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. (3-19-99)

03. Suspension. If a claimant is suspended without pay for a specific number of days he is not considered unemployed nor eligible for benefits. However, a person suspended without pay for an indefinite period of time is considered discharged and a determination will be made as to whether the discharge was for misconduct. (3-19-99)

376. -- 399. (RESERVED).

400. LABOR DISPUTE/UNION RULES.

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(7), (10), Idaho Code.

(3-19-99)

01. Burden Of Proving Nonparticipation. The burden of proving nonparticipation, lack of financing and similar factors is upon the claimant who is seeking to avoid being found ineligible on the basis that his unemployment is due to a labor dispute. (3-19-99)

02. Involvement Of Work Site In 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. (3-19-99)

03. Lack Of Work. A claimant's unemployment shall be deemed due to lack of available, suitable work and not due to a labor dispute if it is 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 the drop in business. (3-19-99)

04. Laid Off Before Labor Dispute. 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 the labor dispute. (3-19-99)

05. Merits Of Labor Dispute. The Department shall not make a determination on the merits of a labor dispute. (3-19-99)

06. 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. (3-19-99)

07. Picketing Work Site. The act of picketing the work site of a labor dispute constitutes participation in the labor dispute, whether or not payment is made for such services. (3-19-99)

08. Refusal To Cross Picket Line. Voluntary refusal to cross a peaceable picket line to work constitutes participation in the labor dispute. (3-19-99)

09. Subsequent Employment. Subsequent employment does not make the claimant eligible for benefits if his unemployment is still due to the labor dispute. 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. (3-19-99)

10. Termination Of Labor Dispute. The period of ineligibility due to the labor dispute terminates at the end of the calendar week in which the labor dispute no longer exists. The termination of the dispute does not automatically make a claimant eligible for benefits. (3-19-99)

11. Union Member. The fact that an individual is a dues-paying union member alone does not constitute financing a labor dispute. Nor does the fact that he is not a union member establish that he is not financing or participating in the dispute. (3-19-99)

12. Union Requirements. Union rules and requirements do not supersede the Employment Security law. (3-19-99)

401. -- 424. (RESERVED).

425. NEW CLAIMS/ADDITIONAL CLAIMS.
Ref. Sec. 72-1308, Idaho Code. (3-19-99)

01. Claims For Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. (3-30-01)

02. Effective Date Of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing Of New Claims. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone. (3-30-01)

a. **Electronically Filed Claims.** Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be

assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

b. **In-person Filing.** A claimant may file a claim in person at the local Job Service office serving the claimant's area of residence. Job Service offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

c. **Interstate Claims.** Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

d. **Itinerant Locations.** Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on 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. (3-30-01)

e. **Mailed Claims.** A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (3-30-01)

04. Itinerant Claims. 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 inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration For Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant 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(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-30-01)

07. Requirement To Provide Information. Any individual filing a claim for benefits shall provide the Department with: (3-30-01)

- a. His legal name; (3-30-01)
- b. His address where mail is delivered to him; (3-30-01)
- c. His place of last employment; (3-30-01)
- d. The employer's name and correct mailing address; (3-30-01)
- e. His Social Security Number; (3-30-01)
- f. The reason for separation from all applicable employers; (3-30-01)

- g. His plans for finding other employment at the earliest possible time; and (3-30-01)
- h. If requested by the Department, a list of all other employment in the past eighteen (18) months. (3-30-01)
- i. Failure to provide this information may result in ineligibility for benefits until the information is provided. Ref. Sec. 72-1366(1), Idaho Code. (3-30-01)

08. Right To Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (3-19-99)

10. Separation Notice. (3-19-99)

a. Request for Separation Information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits, shall submit to the Department a report of the reasons for the separation whenever such claimant: (4-5-00)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)
- iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. The completed statement must be filed with the Department within ten (10) days from the date the request for separation information was mailed to the employer or by the extended due date, if any, granted by the Department. If the due date is a Saturday, Sunday, or holiday, the time for filing the employer's statement shall be extended to include the following working day. The employer's statement may be filed by one (1) of the following methods with the office listed on the request for separation information: (4-5-00)

i. Personal delivery. The employer's statement may be personally delivered to the office by handing it to a Department employee at the office. The date of personal delivery shall be noted on the statement by the Department employee and shall be deemed the date of filing. The statement must be delivered to a Department employee by 5 p.m. on a business day to be deemed filed on that date. (3-19-99)

ii. Faxing or e-mailing. The employer's statement may be faxed or e-mailed to the office if sent to the fax number or e-mail address listed on the request for separation information. A faxed or e-mailed statement that is received by 5 p.m. (as of the time zone of the office receiving the fax or e-mail) on a business day shall be deemed filed on that date. A faxed or e-mailed statement that is received on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. (4-5-00)

iii. Mailing. The employer's statement may be mailed to the office. A mailed statement shall be

deemed filed on the date of mailing as determined by the postmark on the envelope containing the statement. Ref. Sec. 72-1337 and 72-1368, Idaho Code. (3-19-99)

iv. Telephone. The employer's statement may be provided to the office by telephone if: (4-5-00)

(1) The employer calls the office telephone number listed on the request for separation information between 8 a.m. and 5 p.m. (as of the time zone of the office receiving the call) on a business day and asks to provide the separation statement to a Department representative; or (4-5-00)

(2) A Department representative calls the employer to obtain the separation information. (4-5-00)

v. The employer must provide the separation information to a Department representative on or before the employer's due date for providing the information, in order for the statement to be deemed timely filed. (4-5-00)

c. Date of Mailing of Request by the Department. The date indicated by the Department on the request for separation information as "Date of Mailing" shall be presumed to be the date the request was deposited in the United States mail, unless shown otherwise by a preponderance of competent evidence. (3-19-99)

d. Extending Due Date. To obtain an extension of the due date for the separation statement, an employer must contact the local office and request the extension by the date the separation statement is otherwise due. (3-19-99)

e. Appealing Ruling of Untimeliness. If, in the initial determination on the claim, it is determined that an employer has failed to file the completed separation statement within the time provided in this rule, the employer may assert that there was good cause for such failure or that the requested information was provided by the due date by filing an appeal of that determination in accordance with IDAPA 09.01.06, "Rules of the Appeals Bureau," Section 012, within fourteen (14) days of the date the determination was mailed. (3-19-99)

11. Filing Of An Additional Claim Or Reopening A Claim. A claim series may be reestablished, electronically, in person at a local office or at an itinerant location, by telephone, or by mail. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-30-01)

a. In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)

c. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (3-30-01)

e. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing

a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use Of Wage Credits. 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. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be 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. (3-19-99)

426. -- 449. (RESERVED).

450. QUIT.
Ref. Sec. 72-1366(5), Idaho Code. (3-19-99)

01. Burden Of Proof. The claimant has the burden of proof to establish that he voluntarily left his employment with good cause in connection with the employment to be eligible for benefits. (3-19-99)

02. Cause Connected With Employment. 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. (3-19-99)

03. 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. (3-19-99)

04. Moral Or Ethical Quit. A claimant who leaves a job because of a reasonable and serious objection to the work requirements of the employer on moral or ethical grounds and is otherwise eligible, shall not be denied benefits. (3-19-99)

05. Quit Due To Health Or Physical Condition. A claimant whose unemployment is due to his health or physical condition which makes it impossible for him to continue to perform the duties of the job shall be deemed to have quit work with good cause connected with employment. (3-19-99)

06. Quit For Permanent Work Or Quit Part-Time Work 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. (3-19-99)

07. 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. (3-19-99)

08. 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. (3-19-99)

09. When Notice Of Resignation Prompts A Discharge. If a 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 (3) elements should be present for both actions to affect the claimant's eligibility: (3-19-99)

- a. The employee gave notice to the employer of a specific separation date; (3-19-99)
- b. The employer's decision to discharge the claimant before the effective date of the resignation was a consequence of the pending separation; and (3-19-99)
- c. The discharge occurred a short time prior to the effective date of the resignation. (3-19-99)

451. -- 474. (RESERVED).

475. REFUSAL OF WORK/FAILURE TO APPLY.

Ref. Sec. 72-1366(6), (7), Idaho Code. (3-19-99)

01. Citizenship Or Residency Requirements. An employer's restrictions on citizenship or residency shall be deemed good cause for a claimant's failure to apply for available work if he does not meet the requirements. (3-19-99)

02. Claimant Conduct. A claimant who, by his conduct, causes an employer to withdraw an offer of suitable work or terminate the offer after the claimant has accepted it shall be ineligible. (3-19-99)

03. Claimant Responsibility. A claimant has the responsibility to apply for and accept suitable work. (3-19-99)

04. Conscientious Objection. A claimant may refuse employment that requires him to work on his Sabbath if his religious convictions do not permit him to work on that day. (3-19-99)

05. Employer Requirements. Claimants are expected to comply with reasonable, lawful requirements that are typical of certain occupations, such as a requirement that a worker be bonded. Unreasonable requirements by employers shall not be used as a basis to deny benefits. However, a claimant must have good cause to refuse or fail to meet an employer's reasonable, lawful employment requirements to be eligible for benefits. (3-19-99)

06. Failure To Report. A claimant who fails to report to a local office when so directed, fails to follow explicit instructions for applying for suitable, available work, or fails to report to work after accepting employment, without good cause, shall be ineligible. Ref. Sec. 72-1366(2), (6), Idaho Code. (3-19-99)

07. 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. (3-19-99)

08. Government Requirements. A claimant who cannot meet government requirements (such as obtaining a civil service rating) within a reasonable period of time shall have good cause for refusing that opportunity to work. (3-19-99)

09. License Or Permits. A claimant must provide or be capable of obtaining a license or permit if required by law for performance of the work. (3-19-99)

10. Moral Objections. A claimant shall not be ineligible for failing to apply for or accept employment if the claimant has reasonable, serious objections to the work or the workplace on moral or ethical grounds. (3-19-99)

11. Offer Of Work. A claimant whose unemployment is due to his failure without good cause to accept available, suitable work shall be ineligible. The job offer must have been genuine and known to the claimant. (3-19-99)

12. Part-Time Work. A claimant must be available for and willing to accept suitable part-time work in

the absence of suitable full-time work. (3-19-99)

13. Personal Circumstances. To have good cause to refuse to apply for or accept available, suitable work because of personal circumstances, a claimant must show that his circumstances were so compelling that a reasonably prudent individual would have acted in the same manner under the same circumstances. (3-19-99)

14. Prospect Of More Suitable Work. A claimant shall not be ineligible for failing to accept employment if he has excellent prospects for more suitable work with his former employer or in his regular occupation. (3-19-99)

15. Suitable Work. Every claimant has the right to restrict his availability to suitable work. (3-19-99)

16. Travel Distance. A claimant shall not be ineligible if the travel distance to available work is excessive or unreasonable. A claimant shall be ineligible if he fails to apply for and accept suitable work within a commuting area similar to other workers in his area and occupation. (3-19-99)

17. Working Conditions. Employment shall be considered suitable if the working conditions are as favorable as those prevailing for similar work in the same locality. (3-19-99)

476. -- 499. (RESERVED).

500. REISSUING CHECKS.

Whenever a benefit check is lost, stolen, destroyed, or forged, the claimant shall be issued a new check upon his proper presentation of the facts and submission of an affidavit, in a form prescribed by the Department, for the issuance of a new check. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

01. Affidavit For Issuance Of New Check. A claimant's affidavit filed for the issuance of a new check must be signed before a notary public or an authorized representative of the Department. If a claimant completes an affidavit and submits the remaining portions of a partially destroyed or mutilated check, the Department will waive any waiting period for reissuance of the check. (3-19-99)

02. Reissuance Of Stolen Checks. If a claimant knows who took a check, he must provide evidence that he has taken all reasonably available legal steps and been unsuccessful in recovering the check before the Department will consider reissuing the check. (3-19-99)

501. -- 524. (RESERVED).

525. REPORTABLE INCOME.

Ref. Sec.72-1312, 72-1328, Idaho Code. (3-19-99)

01. 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. (3-19-99)

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes. (3-19-99)

03. Disability Retirement Payments. Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ref. Sec. 72-1312(4), Idaho Code. (3-19-99)

04. Gratuities Or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned. (3-19-99)

05. Holiday Pay. Holiday pay must be reported as though earned in the week in which the holiday occurs. Holiday pay that is contingent upon an employee's return to work after the holiday is considered a bonus and is reportable when paid. (3-19-99)

06. 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. (3-19-99)

07. Penalty Or Damage Awards. Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages. (3-19-99)

08. Pension, Retirement, Or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made 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 plan, 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(4), Idaho Code. (3-19-99)

a. **Pension Contributions.** The burden shall be on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan. (3-19-99)

b. **Pension Payment Changes.** Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount shall be applied in the first full week after the effective date of the change. (3-19-99)

09. Relief Work Or Public Assistance. Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (3-19-99)

a. **Eligibility When Public Assistance Received.** A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible. (3-19-99)

10. Self-Employment 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 may 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. (3-19-99)

11. 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. (3-19-99)

12. Vacation Pay. Vacation pay allocable to a certain period of time in accordance with an 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. (3-19-99)

13. Verification Of Earnings On Claim Reports. The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

14. Wages For Contract Services. A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (3-19-99)

15. Wages For Services Performed Prior To Separation. Wages for services performed prior to a

claimant's separation are reportable for the week in which earned. (3-19-99)

526. -- 549. (RESERVED).

550. 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(1), Idaho Code. (3-19-99)

01. In-Person Reports. A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local 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 reporting period shall be extended to include the following working day. (3-19-99)

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. (3-19-99)

03. Telephone Reports. Reports filed by telephone to the Idaho Tel A Claim system must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (3-19-99)

04. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (3-19-99)

551. -- 574. (RESERVED).

575. SEEKING WORK.

Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude And Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort To Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, claimants will be classified according to their attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. 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. (3-19-99)

b. Code B. Claimants who possess marketable skills in an occupation, but have no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in their areas of availability. (3-19-99)

c. Code C. Claimants who have no marketable skills or whose skills have become obsolete and who are unable to return to their former occupations, or who have a special need for employment-related services. (3-19-99)

d. Code D. Claimants who are assigned to a training course under the provisions of Section 72-

1366(8), Idaho Code. (3-19-99)

05. 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. (3-19-99)

06. No Employment Prospects. A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

07. Register For Work. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-19-99)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. Claimants shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative. A claimant's category of work-seeking activity will be determined and modified based on the claimant's length of unemployment, the prevailing local labor market conditions, and/or the average county unemployment rates. (3-19-99)

a. Code O: Claimants who are required to do at least one (1) of the following: (3-19-99)

i. Maintain regular contact with their employers; (3-19-99)

ii. Make local inquiries; (3-19-99)

iii. Maintain contact with the local office; or (3-19-99)

iv. Check "help-wanted" ads in newspapers or trade publications. (3-19-99)

b. Code 1: Claimants who are required to do at least one (1) of the following: (3-19-99)

i. Send resumes to firms/businesses that hire people with their skills; (3-19-99)

ii. Make at least one (1) employer contact each week either in person or by phone; or (3-19-99)

iii. Attend a Job Search Workshop. (3-19-99)

c. Code 2: Claimants who are required to do at least one (1) of the following: (3-19-99)

i. Make at least two (2) employer contacts per week in the manner prescribed by the local office; (3-19-99)

ii. Expand work search efforts to surrounding areas or states; or (3-19-99)

iii. Attend a Job Search Workshop. (3-19-99)

d. Code 3: Claimants who are required to do at least one (1) of the following: (3-19-99)

i. Make at least three (3) employer contacts per week in the manner prescribed by the local office; or (3-19-99)

ii. Enroll and attend a specific training program to meet the requirements of the employment plan. (3-19-99)

576. -- 599. (RESERVED).

600. SELF-EMPLOYMENT.

A claimant shall not be eligible when his self-employment is of such size and nature that the operation of it is his principal duty and working for an employer is merely incidental. Ref. Sec. 72-1366(13), Idaho Code. (3-19-99)

01. Occupational Conflicts. Agricultural activities, commercial enterprises, family enterprises, and commission sales work are examples of self-employment which may render a claimant ineligible unless he can show he is seeking employment and is available for suitable work. (3-19-99)

02. Potential Employability. A claimant would be eligible if his self-employment in no way interferes with his potential employability and work schedule. (3-19-99)

601. -- 624. (RESERVED).

625. SEXUAL HARASSMENT.

For purposes of Section 72-1366(5), 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: (3-19-99)

01. Condition Of Employment. Submission to such conduct was made either explicitly or implicitly a term or condition of an individual's employment. (3-19-99)

02. Employment Decisions. Submission to or rejection of such conduct by an individual was used as the basis for employment decisions affecting such individual. (3-19-99)

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. (3-19-99)

626. -- 649. (RESERVED).

650. SIGNATURES OF ILLITERATES AND WITNESSES.

If a claimant is unable to write his name, he shall instead use the mark (X). The mark must be witnessed by a Department representative or an individual who shall enter, immediately after the mark (X), the words "His Mark". Next, the name of the claimant shall be printed, followed by the signature of the Department representative or the individual who witnessed the mark. Ref. Sec. 72-1366 (1), Idaho Code. (3-19-99)

651. -- 674. (RESERVED).

675. TOTAL TEMPORARY DISABILITY ALTERNATE BASE PERIOD (TTD).

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(2), Idaho Code. (3-19-99)

676. -- 999. (RESERVED).

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