

**BEFORE THE DELAWARE DEPARTEMNT OF LABOR,
DIVISION OF UNEMPLOYMENT INSURANCE**

**EMERGENCY RULES AMENDING THE DELAWARE
UNEMPLOYMENT INSURANCE CODE PURSUANT TO FIRST
MODIFICATION OF STATE OF EMERGENCY DECLARATION**

WHEREAS, the Centers for Disease Control and Prevention has determined that a novel coronavirus (“COVID-19”) presents a serious public health threat; and

WHEREAS, on March 12, 2020, Governor John Carney issued a State of Emergency in Delaware due to the public health threat of COVID-19, which became effective as of Friday, March 13, 2020 at 8:00 a.m. E.S.T., and shall continue until terminated as provided under state law; and

WHEREAS, on March 16, 2020, Governor Carney issued a First Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat, pursuant to Title 20, Chapter 31 of the Delaware Code, which modified the previously issued State of Emergency declaration and provided that:

“The Delaware Secretary of Labor is authorized to develop emergency rules, amending the Delaware Unemployment Insurance Code, effective Monday, March 16, 2020, such emergency rules to remain in effect until the State of Emergency declaration has been rescinded. These rules should enhance the flexibility of the unemployment insurance program in response to COVID-19, and alleviate some of the burden of temporary layoffs, isolation, and quarantine by ensuring unemployment benefits are available to individuals whose employment has been impacted directly by COVID-19.”; and

WHEREAS, the First Modification also limited public gatherings to 50 people, provided all restaurants, bars and taverns could only provide food and beverage service through take-out, drive through or off premises delivery, and required casinos to cease gaming operations; and

WHEREAS, on March 18, 2020, Governor Carney issued a Second Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the

“Second Modification”), which reiterated the emergency rulemaking authorization to the Delaware Secretary of Labor that was in the First Modification, and also required bowling alleys, concert events, movie theaters, sports facilities, fitness centers, and health spas to cease operations; and

WHEREAS, on March 19, 2020, President Trump signed into law the Families First Coronavirus Response Act, including the Emergency Unemployment Insurance Stabilization and Access Act of 2020, which grants the states broad flexibility to modify state unemployment laws and policies on an emergency temporary basis as needed to respond to COVID-19; and

WHEREAS, in the interest of protecting the citizens of Delaware who may experience economic hardships related to the impact of COVID-19, the Department of Labor finds that the adoption of the following emergency rules is necessary to enhance the flexibility of Delaware’s unemployment insurance program to provide cash assistance to many Delaware workers whose employment has been impacted directly by COVID-19 and who would not typically qualify for benefits.

NOW, THEREFORE, IT IS ORDERED, effective the 16th day of March, 2020:

1. The Division hereby waives work search requirements and registration and attendance at related reemployment appointments and workshops during the State of Emergency for claims filed as a result of COVID-19.
2. The Division hereby waives able and available requirements during the State of Emergency for claims filed as a result of COVID-19 if the claimant is unable to work due to illness, self-isolate, quarantine or the need to care for a family member (parent, spouse or child). Individuals are expected to take reasonable precautions to preserve their health so they are able to return to work once work becomes available.
3. The Division hereby waives able and available requirements for parents required to care for children while school is not in session due to the State of Emergency. Individuals are expected

to take reasonable precautions to preserve their health so they are able to return to work once school is in session.

4. The Division hereby waives the requirement to submit medical documentation for claims filed as a result of COVID -19 until the conclusion of the State of Emergency.
5. If the State of Emergency is concluded and a temporarily laid off individual does not return to the former employer when the worker is called to do so, the individual may not be eligible for continuing benefits.
6. The Division hereby extends deadlines to file an appeal to Lower Authority Appeals and Higher Authority Appeals until 30 days following the conclusion of the State of Emergency. Parties may file appeals earlier if they want an earlier hearing or decision on their appeal.
7. The Division hereby extends deadlines to respond to audits and other investigations until 30 days following the conclusion of the State of Emergency.
8. The Division hereby extends the deadline to submit the UC-8 Quarterly Tax Report until 30 days following the conclusion of the State of Emergency.
9. Workers must have earned a minimum of \$966.00 in taxable wages during the base period to establish a monetarily eligible claim for benefits. Earnings that are not reported to the Division are not considered wages for the purpose of unemployment compensation.
10. Individuals are expected to exhaust all available paid leave from their employer, or from Federal or state government prior to utilizing Unemployment Insurance benefits.
11. The Division hereby suspends or amends the provisions of the Delaware Unemployment Insurance Code dealing with extended benefits, including Section 3326 of Title 19, to the extent necessary to allow the State of Delaware and its citizens to receive the maximum benefits provided by the federal stimulus laws enacted in response to the COVID-19 pandemic, including the Families First Coronavirus Response and the Coronavirus Aid Relief and Economic Security Act.

These emergency rules are promulgated by the Department of Labor pursuant to the authority granted to the Governor in Title 20, Chapter 31, including the ability of the Governor to designate or appoint a state agency to make, amend and rescind orders, rules and regulations necessary for emergency management purposes, which rules shall have the full force and effect of law. By the First Modification, the Governor authorized the Department of Labor to promulgate these emergency rules. All existing laws, ordinances, rules or regulations that are inconsistent with these emergency rules shall be suspended during the period of the State of Emergency to the extent that a conflict exists. These emergency rules shall remain in effect until the State of Emergency declaration has been rescinded. The Secretary of the Department of Labor reserves the right to issue additional emergency rules, pursuant to the rule-making authority granted in the First Modification.

IT IS SO ORDERED, effective the 16th day of March 2020.



Cerron Cade
The Secretary of the Delaware Department of Labor