

47:06:01:01. Definition of terms. As used in article 47:06, these terms, unless otherwise clearly indicated, mean:

- (1) "Agency," an officer, board, commission, or other authority charged with the administration of the unemployment compensation law of a jurisdiction;
- (2) "Initial claim for benefits," a new or additional claim. A new claim is the first claim filed by an individual requesting a determination of eligibility, weekly benefit amount, and maximum benefits payable. An additional claim is a request for resumption of benefit payments after benefits have been interrupted due to employment, nonavailability, or other causes;
- (3) "Interested agency," an agency of a jurisdiction involved when an employing unit elects to cover multistate workers;
- (4) "Interested jurisdiction," a participating jurisdiction involved when an employing unit elects to cover multistate workers and to which the employing unit sends its election for approval;
- (5) "Jurisdiction," a state of the United States, the District of Columbia, Canada, or the federal government of the United States;
- (6) "Participating jurisdiction," a jurisdiction whose administrative agency has and continues to subscribe to the Interstate Reciprocal Coverage Arrangement;
- (7) "Party appealing," the party filing an appeal from a determination of a claims deputy to the hearing examiner or from a decision of a hearing examiner to the secretary of the Department of Labor and Regulation;
- (8) "Public employment office," the state or local office established by the Department of Labor and Regulation;

(9) "Services customarily performed by an employer in more than one jurisdiction," services performed in more than one jurisdiction during a period of time, if the nature of the service gives assurance that it will continue to be performed in more than one jurisdiction or if the services are required or expected to be performed in more than one jurisdiction under an employing unit's election to cover multistate workers;

(10) "Seasonal industry," an industry which customarily suspends its operations for revenue for a period of five months or more within a calendar year except for basic caretaking activities and which is designated as a seasonal industry by the Department of Labor and Regulation;

(11) "Week of unemployment," one of the seven-consecutive-day periods beginning on the Sunday ~~preceding the day on which the claimant registered at a local office of the employment service and filed a new or additional claim~~ as defined in SDCL 61-1-51;

(12) "Transitional claim," a claim that is filed without an interruption in filing between the benefit year that has expired and the beginning of a new benefit year.

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 39 SDR 127, effective January 23, 2013.

General Authority: SDCL 61-1-1 (18).

Law Implemented: SDCL 61-1-1 (18).

47:06:01:02. Designation of specific industries as seasonal -- Duration of season.

Following is a list of seasonal industries, together with the duration of the season applicable to each:

(1) Summer hotels, inns, camps, curio shops, roadside restaurants, ice cream and soft drink stands, and stable or trail ride operations: May 1 to October 1;

(2) Tourist souvenir stores, tour buses, information centers, and other operations in the tourist industry: May 1 to October 31;

(3) Drive-in theaters and concessions: April 15 to November 1;

(4) Racetracks and racetrack concessions: May 15 to October 1;

(5) Baseball teams and ball park concessions: May 1 to September 15;

(6) Carnivals: May 1 to October 1;

(7) Seasonally operated country clubs and golf courses: April 1 to November 1;

(8) Seasonally operated chair lifts: May 1 to November 1;

(9) Seasonally operated ski resorts: November 1 to May 1;

(10) Outdoor swimming pools: May 15 to September 15;

(11) Seasonally operated hunting preserves or game lodges: September 1 to February 1;

(12) Retail nurseries classified in industry number 444220 as enumerated in the North American Industry Classification Manual (NAICS): May 1 to October 31;

(13) Retail fireworks stands: May 1 to September 15;

(14) Seasonally operated small game cleaning services: September 1 to February 1.

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 10 SDR 28, effective September 28, 1983; 10 SDR 89, effective February 28, 1984; 19 SDR 182, effective June 2, 1993; 21 SDR 86, effective November 10, 1994; 24 SDR 136, effective April 12, 1998; 30 SDR 152, effective April 14, 2004; 39 SDR 127, effective January 23, 2013.

General Authority: SDCL 61-1-54.

Law Implemented: SDCL 61-1-54.

Reference: North American Industry Classification System. The NAICS Manual is available online at <http://www.census.gov/eos/www/naics/>. Copies of the manual in print and on CD-ROM may be obtained from the National Technical Information Service, telephone number (800) 553-6847, or through the NIST Web site <http://www.ntis.gov/Index.aspx>.

47:06:02:14. Recomputation of transferring employer's contribution rate. The contribution rate previously established for the transferring employer for all units of the employer's business that are retained shall be recomputed in accordance with §§ ~~47:06:02:08~~ 47:06:02:09 ~~to and~~ and ~~47:06:02:10, inclusive.~~ The recomputed rate shall be effective on the first day of the calendar quarter following the quarter during which the transfer was made.

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 15 SDR 128, effective February 26, 1989; 39 SDR 127, effective January 23, 2013.

General Authority: SDCL 61-5-42.

Law Implemented: SDCL 61-5-42.

CHAPTER 47:06:04

EMPLOYEE'S UNEMPLOYMENT BENEFITS

Section

47:06:04:01 Benefit eligibility of seasonal employees -- Determination.

47:06:04:02 Repealed.

47:06:04:03 Initial benefit determination of individuals filing on both seasonal and nonseasonal wages.

47:06:04:04 Redetermination of benefit for individual with both seasonal and nonseasonal wages.

47:06:04:05 Concurrent employment.

47:06:04:06 to 47:06:04:10 Repealed.

47:06:04:11 Filing new and additional claims -- Registration for work required.

47:06:04:11.01 Effective date of initial and additional claims.

47:06:04:12 to 47:06:04:14 Repealed.

47:06:04:14.01 Additional claim required.

47:06:04:15 Reporting at other offices.

47:06:04:16 Commencement of benefit year -- Withdrawal of claim.

47:06:04:17 Waiting period and continued claims for benefits -- Time of filing.

47:06:04:17.01 Eligibility ~~interviews~~ assessments.

47:06:04:17.02 Reemployment services.

47:06:04:18 Repealed.

47:06:04:19 Payment in kind to be reported by employee.

47:06:04:20 Repealed.

47:06:04:21 Criteria for "actively seeking work."

47:06:04:21.01 Shift work availability.

47:06:04:21.02 Availability for work.

47:06:04:21.03 Jury duty.

47:06:04:22 Waiver of overpayment.

47:06:04:23 to 47:06:04:26 Repealed.

47:06:04:27 Effective dates of disqualifications.

47:06:04:28 Weeks of administrative penalty.

47:06:04:17. Waiting period and continued claims for benefits -- Time of filing.

Claims for waiting period weeks or claims for benefits for weeks of total or partial unemployment shall be filed using any of the filing options offered by the department. Each claim shall be filed within seven calendar days following the last day of the week of unemployment for which benefits are claimed with the following exceptions:

(1) Claims filed within the subsequent seven-day period shall be accepted if good cause is shown for late filing; and

(2) ~~Partial unemployment during a claim week, or reemployment during the week following the claim week, shall be considered good cause for failure to file promptly. Reporting requirements shall be met if the claim is filed within two weeks after the end of the week of partial unemployment or within two weeks after the day that the wages were paid.~~ Claims for partial unemployment during a claim week filed within the subsequent seven-day period shall be accepted; or

(3) Claims filed within the subsequent seven-day period shall be accepted if reemployment occurred during the week following the claim week.

Source: SL 1975, ch 16, § 1; 7 SDR 56, effective December 15, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 24 SDR 136, effective April 12, 1998.

General Authority: SDCL 61-7-1.

Law Implemented: SDCL 61-7-1.

47:06:04:17.01. Eligibility interviews assessments. An individual that has filed a claim for benefits shall submit to periodic eligibility ~~interviews~~ assessments as frequently as the public employment service office ~~that has jurisdiction over the claim for benefits~~ schedules an interview

assessment. The frequency of the eligibility ~~interviews~~ assessments shall be determined by the following considerations:

- (1) An individual's potential for being recalled to work by the individual's former employer;
- (2) An individual's reason for separating from the previous employer;
- (3) An individual's potential for employment within the individual's occupation and area of residence.

An individual who fails to report for a scheduled eligibility ~~interview~~ assessment shall be denied benefits for the week in which the eligibility ~~interview~~ assessment was scheduled and for every subsequent week ~~unless until~~ the individual obtains approval for a change in the scheduled ~~interview~~ reschedules an assessment or establishes good cause for failing to report. ~~An individual who does not report for a scheduled eligibility interview without approval must file an additional claim to reestablish eligibility.~~

Source: 9 SDR 81, 9 SDR 124, effective July 1, 1983; 15 SDR 128, effective February 26, 1989; 39 SDR 127, effective January 23, 2013.

General Authority: SDCL 61-7-1.

Law Implemented: SDCL 61-6-1.

47:06:04:21. Criteria for "actively seeking work." To be considered able to work and available for work a claimant must be "actively seeking work." In determining what constitutes "actively seeking work," the secretary or the secretary's representative shall consider whether the efforts the claimant has made to obtain work have been reasonable and are efforts an

unemployed individual is expected to make if the individual is honestly looking for work.

Participation by the claimant in a department approved "reemployment services" program shall be considered to be "actively seeking work". For all other individuals, the criteria used by the secretary or representative to determine if a claimant is "actively seeking work" include the following:

(1) The prevailing occupational wage that the claimant is suited for by experience or training in the area where the claimant resides in relation to the wage the claimant is willing to accept. Individuals who have been trained for an occupation or have work experience in an occupation for which there is not current or anticipated demand in the area where they reside, as determined by the secretary or representative, must be available for work that they are capable of doing at the prevailing wage rate for that type of work; and

(2) Unless exempt under § 47:06:04:11, the job contacts made by the claimant which meet the following criteria:

(a) Claimants filing for regular benefits must make two job contacts in each week for which benefits are requested. Weekly claims for benefits payable after regular benefits are exhausted, such as extended, supplemental, or emergency benefits, require at least five job contacts in each week for which benefits are requested. The secretary or representative may change the number of required job contacts based on local labor market conditions; and

(b) Claimants must make the job contact in the manner customarily required by the employer. However, contact by telephone does not satisfy this requirement; ~~and~~ .

~~(c) Claimants must keep and provide when requested the records of their job contacts that the secretary or representative requires to verify compliance with this section. The records~~

~~must be kept up to date for each week benefits are claimed and must be retained for at least two months after the last weekly claim was filed.~~

Source: 7 SDR 56, effective December 15, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 11 SDR 86, effective January 1, 1985; 18 SDR 62, effective October 9, 1991; 38 SDR 11, effective August 9, 2011; 39 SDR 127, effective January 23, 2013.

General Authority: SDCL 61-6-1(3).

Law Implemented: SDCL 61-6-1.

47:06:04:27. Effective dates of disqualifications. Disqualifications imposed as provided in SDCL 61-6-9 and 61-6-14 are effective on the date the initial or additional claim is effective.

Disqualifications imposed, based on a disqualifying act that occurred ~~after an individual filed an initial or additional claim~~ during a week of unemployment for which benefits are claimed as provided in SDCL 61-6-9, 61-6-9.1, 61-6-14, 61-6-14.1, and 61-6-16 are effective on the Sunday preceding the day that the disqualifying act occurred.

Source: 9 SDR 81, 9 SDR 124, effective July 1, 1983; 39 SDR 127, effective January 23, 2013.

General Authority: SDCL 61-7-1.

Law Implemented: SDCL 61-6-9, 61-6-9.1, 61-6-14, 61-6-14.1, 61-6-16.