

Title 11. Labor and Industrial Relations

Chapter I. Division of Workforce Services, Department of Commerce

Subchapter A. Generally

Part 1. Division of Workforce Services Rules

Subpart 1. Unemployment Insurance Benefits and Claimants

11 CAR § 1-101. Week of unemployment within a benefit year.

A week shall be deemed to be within that benefit year which includes four (4) or more days of such week.

Authority. Arkansas Code §§ 11-10-306, 11-10-307.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 14(a)"

"This Rule shall take effect and be in full force on and after January 1, 1988."

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-203 and 11-10-214 to read as follows:"

11 CAR § 1-102. Claim filing.

(a) All claims for benefits shall be filed either by telephone, electronically via the internet, by mail, or in person, except as may otherwise be provided herein, at a local employment office of the Division of Workforce Services on standard claim forms prescribed by the division.

(b)(1) All claims must be completed with the individual's Social Security number and all other items of information requested on the standard form prescribed by the division.

(2)(A) In addition, each claim shall bear the individual's signed certification that the information entered on the form is:

- (i) True;
- (ii) Complete; and
- (iii) Correct.

(B) Provided however, when filing by telephone, internet, or other electronic means a claimant's assigned personal identification number or electronic signature satisfies the requirement for a signature.

(3) The claimant must comply with the telephone, internet, and other electronic filing procedures determined by the division.

(4) If an individual submits an incomplete claim form, the division may either require the individual to report to the local employment office to complete the claim form or may return the claim form to him or her by mail or electronic means for completion.

(5) An individual shall report to, or complete and submit the claim form to, the local employment office, as directed, within ten (10) days following the date the division mails the notice to report or returns the incomplete claim form to the individual unless good cause for failing to do so is shown by the individual.

(6) An individual may be required to present his or her Social Security card to verify his or her Social Security number.

(c)(1) To establish a benefit year and to obtain a determination of his or her monetary entitlement to benefits, an individual shall file an initial claim either by telephone, electronically via the internet, in person, or by mail with a local employment office on the standard initial claim form prescribed by the division.

(2) A new benefit year may not be established by the filing of an initial claim unless and until any current benefit year which an individual may have established has expired.

(d) To reestablish his or her claim when intervening employment causes a break of one (1) week or more in an individual's claim series during an existing benefit year or other period of eligibility, he or she shall file, either by telephone, electronically via the internet, in person, or by mail, an additional claim for benefits with a local office of the division on the standard additional claim form prescribed by the division in order to reactivate his or her claim.

(e) To reestablish (reopen) his or her claim when a break of one (1) week or more in an individual's claim series occurs during an existing benefit year or other period of eligibility but not as a result of intervening employment, he or she shall:

(1) Complete another standard initial claim form; and

(2) File it either by telephone, electronically via the internet, in person, or by mail with a local office of the division.

(f)(1) To claim a waiting week, a compensable week, or a noncompensable week of unemployment, an individual who has established or has filed an initial claim to establish a current benefit year shall file either by telephone, electronically via the internet, in person, or by mail, a continued claim on the standard continued claim form prescribed by the division.

(2) All continued claims shall be filed either by telephone, electronically via the internet, in person, or if filed by mail, postmarked not later than the seventh day following the last day of the calendar week for which benefits are claimed.

(3) A valid noncompensable week of unemployment, when properly claimed, may be used by an individual in partial satisfaction of a disqualification.

(g)(1)(A) An initial, additional, reopened, or continued claim, if filed either by telephone, electronically via the internet, or in person, shall be considered to have been filed on the date it is received by the division.

(B) If mailed, such claim shall be considered to have been filed on the date of its postmark.

(2) Except that, if it is determined by the division that a delay in the filing of any claim was due to good cause, it may be considered to have been filed on a date no earlier than fourteen (14) days prior to the date the claim, if filed:

(A) In person, by telephone, or electronically via the internet, was received by the division; or

(B) By mail, was postmarked.

(3)(A) Provided however, the Director of the Division of Workforce Services, at his or her discretion, may waive the restrictions in this subsection if he or she finds that extraordinary circumstances exist and equity and justice require such waiver.

(B) All such waivers shall be reported to the Division of Workforce Services Advisory Council.

(4) Provided further, upon determination by the division that a delay in the filing of a claim at a division local office which provides services to claimants only on a periodic or intermittent basis was due to good cause, such claim may be considered to have been filed on a date no earlier than seven (7) days from the date of the most previous regularly scheduled day such office was open for service.

(5) If a claimant files an initial claim for unemployment compensation against another state and fails to establish a valid claim, is faced with an indefinite postponement of benefits, or withdraws from a wage combining arrangement, his or her subsequent Arkansas initial claim for benefits shall be considered to have been filed on the date his or her original initial claim was filed against the other state.

(h)(1) An initial or additional claim (except a shared work claim) for less than total unemployment, which is based on partial unemployment, shall be:

(A) Filed either by telephone, electronically via the internet, in person, or by mail on the form prescribed by the division; and

(B) Considered to have been filed on a date which will permit the claimant to claim a week of partial unemployment within fourteen (14) days of the date wages were paid for such partial unemployment.

(2) An individual shall be considered partially unemployed when:

(A) He or she is working less than full time; and

(B) Wages payable to him or her are less than one hundred forty percent (140%) of his or her weekly benefit amount.

(i) A continued claim for a week of partial unemployment as defined in the Arkansas Code § 11-10-214 may be considered to be timely if it is filed within fourteen (14) days of the date wages were paid for such week of partial unemployment.

(j) For the purpose of this section, an individual shall be considered to be working less than full time, or partially unemployed, if he or she is working fewer than forty (40) hours in a calendar week.

(k) Subject to the implementation of an interactive voice response (IVR) or telephone claims system, the requirements of this section are to be interpreted consistent with the division's telephone claims taking procedure.

Authority. Arkansas Code §§ 11-10-306, 11-10-307.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 14(b)"

"The following Rule is hereby promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-507 of the Arkansas Department of Workforce Services Law:"

"This amended Rule shall take effect and be in full force on and after July 1, 2003."

11 CAR § 1-103. Registration and reporting.

(a) An individual shall be ineligible to receive benefits, waiting period credit, or noncompensable week credit under Arkansas Code § 11-10-507 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., for any week in which he or she fails to report to a Division of Workforce Services office in person, by telephone, or by other means on the assigned date and time as directed by the division unless it is determined by said division that he or she had good cause for failing to so report.

(b) The filing of an initial, additional, or reopened claim for unemployment benefits either by telephone, electronically via the internet, or on the standard claim form prescribed by the division shall constitute registration for work for any and all individuals except:

(1) Those claimants who:

(A) Are entered into the Reemployment Services and Eligibility Assessment Program because they are having, or may have, difficulty in obtaining employment; and

(B) Live within commuting distance of the nearest local office of the division;

(2) Those who are claiming any form of extended benefits; and

(3)(A) Those who are required to search for work pursuant to 11 CAR § 1-104.

(B) Such individuals shall be required to complete an application with the employment service at the nearest local office of the division.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 14(c)"

"This Rule is hereby amended, promulgated, and adopted by the Director, Department of Workforce Services, pursuant to Arkansas Code 11-10-507 to read as follows:"

"This amended Rule shall take effect and be in full force and effect on and after July 1, 2003."

11 CAR § 1-104. Work search.

(a)(1) The Division of Workforce Services shall advise each claimant who establishes a benefit year or who files an additional or reopened claim what he or she must do to meet the work search requirements of Arkansas Code § 11-10-507.

(2) In so advising the claimant, the division shall take into consideration:

(A) The claimant's:

(i) Knowledge;

(ii) Skills; and

(iii) Abilities;

(B) His or her past work experience; and

(C) The condition of the labor market in which the claimant is seeking employment.

(3)(A) To each such claimant, the division shall provide the number of job search contacts (contacts with potential employers for the purpose of securing work) he or she must make during each week that he or she claims benefits in order to be considered to be doing those things which a reasonably prudent person would be expected to do to secure work.

(B) At the claimant's request, or upon its own motion, the division may provide written and/or oral information and assistance to the claimant on how, when, where, and in what manner to look for and apply for work.

(b)(1) In order to meet the job search requirements of Arkansas Code § 11-10-507, claimants who live in a metropolitan statistical area, as the term is defined by the United States Bureau of the Census, shall be required to make at least three (3), but no more than five (5), job contacts during each week that he or she claims unemployment benefits.

(2) Claimants residing in other labor market areas shall be required to make at least two (2), but no more than four (4), job contacts during each week for which they claim benefits in order to meet this job search requirement.

(3) Provided that if, for good cause shown, a claimant fails to make the number of job contacts required by this subsection, he or she shall not be disqualified for that reason.

(c)(1) Except as elsewhere provided in this section, each claimant who claims benefits for a week of unemployment must show that he or she has made, at least, the number of job contacts set forth for him or her by the division in order to fulfill the work search requirements of Arkansas Code § 11-10-507.

(2)(A) In order for a job contact to be considered bona fide, beginning with the thirteenth compensable week of unemployment the claimant must submit in writing the:

- (i) Name of each employer contacted;
- (ii) Date of each contact;
- (iii) Kind of work sought or applied for;
- (iv) Method of his or her contact; and
- (v) Results of the contact.

(B) The division shall provide a form for the claimant's use in providing such evidence.

(3) Provided that if, for good cause shown, a claimant fails to obtain any item of information required by this subsection (c), he or she shall not be disqualified for that reason.

(d)(1) The claimant must make at least one (1) of the required job contacts in person unless:

(A) He or she normally gets his or her jobs by telephone or through correspondence; or

(B) His or her job contacts were made to employers outside the labor market area of his or her place of residence.

(2)(A) Other efforts to secure work shall count as a job contact if done for the purposes of securing employment.

(B) Such efforts other than those enumerated in subsections (c) and (d) of this section shall count collectively for no more than one (1) bona fide job contact per week.

(e)(1) Notwithstanding the provisions of subsection (b) of this section, above, the division:

- (A) Shall periodically review the claimant's job search efforts; and
- (B) May change the minimum number of weekly job contacts required as:
 - (i) The claimant's length of unemployment increases; or
 - (ii) Labor market conditions change or warrant.

(2)(A) An intrastate claimant shall not be required to submit written documentation of his or her job contacts until his or her nineteenth compensable week of unemployment if he or she is residing in a county or he or she last worked in a county which had an average unemployment rate, as computed by the division, equal to or greater than eight and one-half percent (8 1/2%) during the preceding six-month period of:

- (i) June through November for benefit years established during the six-month period beginning on January 1; and
- (ii) December through May for benefit years established during the six-month period beginning on July 1.

(B) For purposes of applying this provision, the average unemployment rate for the appropriate six-month period for the Arkansas county in which the claim was filed or for the Arkansas county in which he or she last worked shall be used for out-of-state residents filing claims in a division office.

(3) Interstate claimants shall not be required to provide written documentation of job search contacts until their nineteenth compensable week of unemployment when the Arkansas statewide average unemployment rate is equal to or greater than eight and one-half percent (8 1/2%) during the appropriate six-month period.

(4) All claimants, however, must continue to do those things a reasonably prudent individual would be expected to do under the circumstances to secure work.

(f)(1) A union member claimant's authorized union hiring hall representative may make such claimant's job contacts for him or her as his or her agent.

(2) In such instances, the claimant shall provide the division with the:

(A) Name, address, and local number of the union of which he or she is a member and with evidence that:

- (i) He or she is a union member;

(ii) His or her union dues are currently paid; and

(iii) His or her union local maintains a full-time hiring hall;

(B) Name and address of such hiring hall; and

(C) Name and address of the union hiring hall official who will act as his or her agent.

(3) The claimant shall remain responsible for the timely provision of evidence, as required by the division, of job contacts made by the union hiring hall official acting as his or her agent for such purpose.

(4) The division shall provide the claimant with a form for use in providing such evidence of work search efforts.

(g)(1) For the purpose of fulfilling the job search requirements of Arkansas Code § 11-10-507 as prescribed in subsection (b) of this section, above, the following types of job contacts shall be treated in the manner specified for each:

(A) Contacts with the division's job placement service.

(i) An initial registration for work or the renewal of a registration for work shall be counted one (1) time for each continuous period of unemployment.

(ii) Each instance of reporting to the employment office in response to a call-in by the job service shall be counted as a job contact.

(iii) Any and all other contacts with the job service during any month shall be counted but only as one (1) job contact during each calendar month;

(B) Contacts with exclusive hiring agreement employers. Job contacts with employers whose names appear on a list, provided by the division to the individual claimant, of employers who hire exclusively through the division shall not be counted as a job contact; and

(C) Contacts with private employment agencies.

(i) Registration with a private employment agency shall be counted as one (1) job contact for each such agency but shall be counted only one (1) time in any one (1) continuous period of unemployment.

(ii) Each job contact made as a result of a referral by a private employment agency shall be counted as a job contact for purposes of subdivision (c).

(2) For the purpose of this subsection (g) of this section, a continuous period of unemployment shall:

(A) Begin when an individual files an initial, additional, or reopened claim for benefits; and

(B) Continue thereafter for as long as he or she files weekly claims for benefits on a continued week basis.

(h) A claimant:

(1) Shall be presumed to be available for work as required by Arkansas Code § 11-10-507; and

(2) Shall not be required to make any further search for work when any of the following circumstances prevail:

(A) The claimant's hours of work have been reduced from full time to part time by his or her employer who has given the claimant an assurance that he or she will be returned to full-time employment within ten (10) weeks after his or her last week of full-time employment;

(B) The claimant's hours of work have been reduced by his or her employer from full time to part time and he or she works at least eight (8) hours for that employer during the week for which he or she claims benefits; or

(C) The claimant has a definite promise of employment to begin within ten (10) weeks after the date of receipt of such promise of employment, provided, at the time he or she files his or her claim for unemployment benefits, he or she provides a written statement from his or her prospective employer evidencing such promise of employment.

(i) A claimant's work search efforts shall be subject to verification which may include, but not be limited to, obtaining relevant information from potential employers reported as having been contacted by the claimant.

(j) Notwithstanding the provisions of any other subsection of this section, the Director of the Division of Workforce Services may reduce or eliminate any of the requirements of said section if such change:

(1) Would be warranted by labor market conditions; and

(2) Would not be contrary to the work search provisions contained in Arkansas Code § 11-10-507.

(k) This section shall not be applicable with respect to individuals claiming extended benefits.

(l)(1) Subject to implementation of an interactive voice response (IVR) or telephone claims system, the requirements of this section are to be interpreted consistent with the division's telephone claims taking procedure.

(2) The work search requirements for telephone claims are to report the number of job contacts as required by subsections (b), (c), and (e).

(3) Documentation of such job contacts shall be maintained by a claimant for the appropriate weeks claimed (i.e., beginning the thirteenth or nineteenth week for possible eligibility or verification purposes).

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 14(d)"

"The following Rule is hereby promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-507:"

"This amended Rule shall take effect and be in full force on and after July 1, 1999."

11 CAR § 1-105. Extended benefits.

(a)(1) If a claimant who has been paid extended benefits for a week or weeks of unemployment is determined eligible for additional regular benefits for those same weeks of unemployment as a result of a redetermination or an appeal, the extended benefits already paid shall be considered to be regular benefits up to the amount paid.

(2) The Division of Workforce Services shall make the necessary adjustments between the federal and state accounts.

(b) The following provisions of the law relating to regular benefits are inconsistent with the extended benefit provisions and, therefore, are not applicable to extended benefits:

- (1) Waiting period week;
- (2) Monetary qualifying and requalifying requirements;
- (3) Computation of weekly and maximum benefit amounts;
- (4) Charging of benefits paid as applicable to any tax-paying employer; and
- (5) Notice to last employer of claim filed, except when:

(A) There has been intervening employment since exhaustion of regular benefits; and

(B) The last employer has not been notified of a claim filed.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 16"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-534 and 535 to read as follows:"

"This amended Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-106. Monetary determination notice.

(a) Each monetary benefit determination issued to a claimant by the Division of Workforce Services shall include a notice of the claimant's right to:

- (1) Request a redetermination; or
- (2) Appeal the determination.

(b) The notice shall clearly state the place and manner for making an appeal and the period within which such appeal must be made.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 17"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-522 to read as follows:"

"This amended Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-107. Payment of benefits to interstate claimants.

(a) As used in this part, unless the context clearly requires otherwise:

(1) "Agent state" means any state in which an individual files a claim for benefits from another state;

(2)(A) "Interstate benefit payment plan" means the plan approved by the National Association of State Workforce Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(B) An interstate claim shall be serviced in accordance with the law of the paying state;

(3) "Interstate benefits" means the compensation payable to an individual with respect to his or her unemployment under the unemployment insurance law of any state;

(4)(A) "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one (1) or more liable states through the facilities of an agent state.

(B) The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the liable state finds that this exclusion would create undue hardship on such claimants in specified areas;

(5) "Liable state" means any state against which an individual files, through another state, a claim for benefits;

(6) "Paying state" means either:

(A) The state in which a claimant files a claim after qualifying in that state on the basis of combined employment and wages; or

(B) If a claimant files a claim in a state that is not the paying state under the criterion set forth in subdivision (a)(6)(A) of this section or files a claim in Canada, then the paying state shall be that state in which the combined-wage claimant was last employed in covered employment among the states in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages;

(7) "State" includes, in addition to the states of the United States of America:

(A) Puerto Rico;

(B) The District of Columbia; and

(C) The Virgin Islands; and

(8) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

(b)(1)(A) Each interstate claimant shall be registered for work through any public employment office in the agent state when and as required by the law, rules, and procedures of the agent state.

(B) Such registration shall be accepted as meeting the registration requirements of the liable state.

(2) Each agent state shall duly report to the liable state in question whether each interstate claimant meets the registration requirements of the agent state.

(c)(1)(A) If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state.

(B) Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

(2) For the purpose of this part, benefit credits shall be deemed to be unavailable whenever benefits:

(A) Have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable; or

(B) Are affected by the application of a seasonal restriction.

(d)(1)(A) Claims for benefits or waiting period credit shall be filed by interstate claimants on uniform interstate claim forms, electronically via the internet or by telephone and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan.

(B) Claims shall be filed in accordance with the type of week in use in the agent state.

(C) Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(2)(A) Claims shall be filed in accordance with agent state rules for interstate claims:

(i) In local employment offices;

(ii) Electronically via the internet;

(iii) By telephone, or at an itinerant point; or

(iv) By mail.

(B)(i) With respect to claims for weeks of unemployment in which an individual was not working for his or her regular employer, the liable state shall, under

circumstances which it considers good cause, accept a continued claim filed up to one (1) week or one (1) reporting period late.

(ii) If a claimant files more than one (1) reporting period late:

(a) An initial claim must be used to begin a claim series; and

(b) No continued claim for a past period shall be accepted.

(C) With respect to weeks of unemployment during which an individual is attached to his or her regular employer, the liable state shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent state.

(e)(1) The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(2)(A) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts.

(B) The agent state shall not refuse to take an interstate claim.

(f)(1) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(2) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state.

(g) This part shall apply in all its provisions to claims taken in and for Canada.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 18"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-313 to read as follows:"

"This amended Rule shall take effect and be in full force on and after July 1, 2001."

11 CAR § 1-108. Cancellation and reissuance of benefit checks.

(a)(1) Any check issued in payment of benefits returned "undelivered" to the Division of Workforce Services by the United States Postal Service shall be canceled immediately.

(2) Upon receipt of the payee's correct mailing address, the division will recertify for payment the week for which the original check was issued.

(b)(1) Each month, upon receipt of a current outstanding benefit check register, the division shall cause to be canceled each benefit check which, at that time, has been outstanding longer than sixty (60) days.

(2) In the event the claimant files a written inquiry concerning such a canceled check, the division, after determination, may recertify for payment the week for which the original check was issued.

(c)(1) In the event a check issued in payment of benefits is lost, mutilated, or destroyed, the payee shall file a statement to that effect in affidavit form with the division.

(2) Upon receipt of such properly executed affidavit and after determination, the division may issue a duplicate check to the payee.

(d)(1) In the event the original check has been negotiated by someone other than the payee, the payee whose endorsement was forged shall furnish satisfactory evidence of forgery by filing an affidavit as to forgery form with the division.

(2) Upon receipt of such evidence, the division may file the original check and the affidavit as to forgery form with the bank on which such check was drawn.

(3) Upon receipt of the refund, or proper credit, from the bank for the check, the division shall then proceed to issue a replacement check to the payee.

(e)(1) At the time of cancellation of such outstanding check or checks, if a base period employer has been charged with benefits represented by such check or checks, its account shall be credited with the amount of the check or checks so canceled, the credit to be effective in the period in which the check or checks were canceled.

(2) If no charge to the employer's account has yet been made at the time of cancellation of the check or checks, no charge representing the amount of the canceled check or checks shall be made to such account.

(f) If reissuance of any benefit check canceled in accordance with subsections (a) and (b) of this section can affect an employer's account as stated in subsection (e) of this section, such employer's account shall be recharged in the proper amount, giving effect to the date of reissuance of the check.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 21"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code Annotated §11-10-501 to read as follows:"

"This amended Rule shall take effect and be in full force on and after July 1, 1989."

11 CAR § 1-109. Destruction of Division of Workforce Services records.

(a) The Director of the Division of Workforce Services is hereby authorized to:

(1) Destroy or dispose of any files, records, or other papers, in accordance with applicable law, at any time after same have been retained in the Division of Workforce Services files for five (5) years and which are, in his or her opinion, no longer of any value to the director; and

(2) Make or cause to be made such summaries or compilations, photographs, duplications, or reproductions as he or she may deem advisable to preserve necessary information in connection with:

- (A) Employer contribution payments;
- (B) Employer payrolls;
- (C) Benefit charges; and
- (D) Employer contribution rates.

(b) Provided, however, the benefit claims records may be destroyed three (3) years after the end of the benefit year to which they pertain.

(c) Division of Workforce Services Unemployment Insurance Trust Fund records may be destroyed two (2) years after they have been audited and approved by federal auditors, and wage records may be destroyed after they have been retained in division files for four (4) years.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 23"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department Of Workforce Services, pursuant to Arkansas Code 11-10-306 to read as follows:"

"This Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-110. Determination of General Educational Development and adult basic education courses as training in demand occupations.

General Educational Development courses and adult basic education courses will be considered as training in occupations for which there is a substantial and recurring demand when such courses:

(1) Are a prerequisite for entrance into training in a specific occupation currently on the demand occupation list prepared by the Labor Market Information Section of the Division of Workforce Services; or

(2) Provide basic skills required as a prerequisite for employment at the entry level in a specific occupation shown on the current demand occupation list prepared by the Labor Market Information Section of the division.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 28"

"The following Rule is hereby promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-507(3)(B) and (C):"

"This Rule shall take effect and be in full force on and after July 1, 1987."

Subpart 2. Unemployment Insurance Contributions and Employers

11 CAR § 1-201. Cash value of certain remunerations.

(a) The Director of the Division of Workforce Services shall determine or approve the cash value of any payment in kind considered as payment for service performed by an individual which is in addition to, or in lieu of, money or wages, and such values shall be reported as wages.

(b) A money value for payment in kind furnished to a worker agreed upon by the worker and his or her employing unit shall be deemed the cash value of such payment in kind unless:

- (1) It is less than rates specially determined by the director; or
- (2) In the case of board and lodging, less than the rates prescribed in subsection (c) of this section, below.

(c) Board and/or lodging furnished an individual in addition to, or in lieu of, money or wages, shall be:

- (1) Reported as wages; and
- (2) Deemed to have not less than the following values:

Full board and room weekly	forty dollars
(\$40.00)	
Meals per week	twenty-two dollars and fifty cents
(\$22.50)	
Meals per day	three dollars and seventy-five cents
(\$3.75)	
Each meal	one dollar and fifty cents
(\$1.50)	
Lodging per week	twenty-one dollars
(\$21.00)	
Lodging per day	three dollars and fifty cents
(\$3.50)	

(d) Notwithstanding the provisions of subsection (c) of this section, above, if the cost of meals furnished an individual in addition to, or in lieu of, money or wages

exceeds the amounts set forth in subsection (c) of this section, the employer may value meals so provided on the basis of their cost to the employer.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 2"

"The following Rule is hereby promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-215:"

"This amended Rule shall take effect and be in full force on and after July 1, 1987."

11 CAR § 1-202. Exclusion of expense allowances and reimbursements from wages.

Any allowances or reimbursements for traveling or other expenses made by an employer to any traveling salesperson or other individual shall constitute wages unless:

(1) Allowances are identified as such and are for bona fide, ordinary, and necessary expenses normally incurred, or reasonably expected to be incurred, by the individual while conducting business on behalf of his or her employer; or

(2) Reimbursements for expenses incurred do not exceed those amounts accounted for by the individual to his or her employer.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 3"

"The following Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-215:"

"This amended Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-203. Identification of covered workers.

The Director of the Division of Workforce Services prescribes that:

(1) Each employer shall secure the Social Security number of each worker employed by him or her in employment subject to the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq.; and

(2) The employer shall report the worker's Social Security number in making any report required by the division with respect to a worker.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 4"

"This Rule shall take effect and be in full force on and after July 1, 1971."

11 CAR § 1-204. Posting and providing notice to workers.

(a) Every employing unit that is or becomes an employer under the provisions of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., shall do the following:

(1) Post, on a continuing basis, a printed notice informing its workers that:

(A) It is an employer under the Division of Workforce Services Law; and

(B) In the event of their unemployment, they may be eligible for unemployment benefits; and

(2)(A) Provide the notice in Appendix A to this part to each employee upon that employee's separation from employment.

(B) The method of delivery of the notice shall be at the employer's discretion.

(b) The notices shall be maintained in locations readily accessible to the employer's workers.

(c) The notices shall not be posted by any employing unit that has not been determined to be, or who has ceased to be, an employer under the Division of Workforce Services Law.

(d) The Director of the Division of Workforce Services shall supply notices to employing units for posting when they are determined to be employers under the Division of Workforce Services Law or upon request.

(e) Any lessor employing unit will provide individual, written notice to each employee specifying the appropriate Division of Workforce Services account number and employer name to be used for the purpose of applying for unemployment insurance benefits.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 5"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-520, to read as follows:"

"(F) PURPOSE. Pursuant to the Director's authority as set out in Ark. Code Ann. §11-10- 520, the Director finds that Rule 5 as amended, is necessary in order that the citizens of Arkansas who are separating from employment are given notice of where to file for unemployment benefits or receive information concerning the availability of such benefits. Further, the Director finds that especially due the COVID-19 pandemic and the widespread closures of businesses an extraordinary amount of unemployment claims have been filed or will be filed in the State of Arkansas; and that the provision of the notice as set out in Appendix A to this Rule is necessary. This amended rule shall take effect upon review of the Arkansas Legislature."

11 CAR § 1-205. Contribution payments and reports, payments in lieu of contributions, advance payments, and wage reports.

(a)(1)(A) Except as otherwise provided in this subsection, each employing unit that is or becomes an employer under the provisions of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., including those that elect to make payments in lieu of contributions under Arkansas Code § 11-10-713, shall file with the Division of Workforce Services an employer's quarterly contribution and wage report electronically in the division's online portal.

(B) The report shall be filed on a quarterly basis in accordance with the due dates specified in subsection (b) of this section, below.

(C) The report shall contain:

(i) The employer's:

(a) Name;

(b) Division account number; and

(c) Address at which the employer keeps payroll records;

(ii) The name and Social Security number of each worker employed by the employer during the calendar quarter;

(iii) The total wages, as defined in Arkansas Code § 11-10-215, paid to each employee with respect to the calendar quarter designated; and

(iv) Any other information that may be requested on the form.

(D) Each employer's quarterly contribution and wage report shall be certified by:

- (i) The individual, if the employer is an individual;
- (ii) The president, vice president, or other principal officer if the employer is a corporation; or
- (iii) A responsible and duly authorized agent having knowledge of its affairs, if the employer is:

- (a)* An individual partnership;
- (b)* Another unincorporated organization;
- (c)* A governmental employing unit; or
- (d)* A group account.

(2) The employer's quarterly contribution and wage report may only be submitted on paper if:

- (A) The employer has fewer than five (5) employees to report for the quarter; and
- (B) It contains all of the information required under subdivision (a)(1)(C) of this section.

(3)(A) All employing units that are care recipients receiving personal care services pursuant to an Arkansas Medicaid program may have the required information reported by an entity under contract with the state to provide fiscal agent services, employer agent services, or both for Arkansas Medicaid programs.

(B) The information may be reported under a single account number established by the fiscal or employer agent.

(C) The fiscal or employer agent shall be liable for all contributions, penalties, and interest related to the account.

(D) The fiscal or employer agent shall maintain separate records for each employer for which it reports on the account.

(b)(1) With respect to wages paid for employment for any calendar year, contributions shall become due and payable on a quarterly basis.

(2) The contribution payment and the employer's quarterly contribution and wage report shall be due and payable in the following manner:

(A) The first calendar quarter shall be due and payable during the month of April of the calendar year;

(B) The second calendar quarter shall be due and payable during the month of July of the calendar year;

(C) The third calendar quarter shall be due and payable during the month of October of the calendar year; and

(D) The fourth calendar quarter shall be due and payable during the month of January of the next calendar year.

(c) All contribution payments and reports shall include all contributions with respect to wages paid for employment in all pay periods ending within the calendar quarter to which the payment and report has reference.

(d) Wages earned for employment, the exact amount of which, or the person to whom payable was not determined during any previous pay period shall, for the purposes of this section, be reported in the pay period in which they are actually paid.

(e)(1) The receipt date of any contribution payment or report shall be the day on which it is received by the division in the state administrative office at Little Rock, Arkansas, except that the receipt date of any contribution payment or report mailed to the division shall be the day it was postmarked as received in the mail by the United States Postal Service.

(2) The receipt date of any contribution payment by electronic funds transfer shall be the date that the remittance is transferred to the division.

(f)(1) Upon the written request of any employer filed with the Director of the Division of Workforce Services on or before the due date of any contribution payment, the director, for good cause shown, may grant in writing an extension of time for the filing of an employer's quarterly contribution and wage report and the payment of the contribution due thereon.

(2) However:

(A) No extension for the filing of the contribution report and the payment of the contribution due thereon shall exceed thirty (30) days; and

(B) No extension shall postpone the filing of the contribution report and the payment of the contribution due thereon beyond the fifteenth day preceding the last day for filing tax returns under the Federal Unemployment Tax Act, 26 U.S.C. § 3301 et seq.

(3)(A) If any employer that has been granted an extension fails to file its employer's quarterly contribution and wage report within the extension period, the penalty provision of the Division of Workforce Services Law shall apply.

(B) If any employer fails to pay the contribution due on the report within the extension period, interest shall be payable from the original due date as if no extension has been granted.

(g) The first contribution payment, together with the contribution report of any employing unit that becomes an employer under the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., shall be due and payable during the calendar month next following the close of the calendar quarter in which it becomes an employer.

(h) Whenever the director finds the collection of contributions from any particular employer may be jeopardized because of bankruptcy, removal, or other factors, he or she may:

(1) Advance the due date of such employer's contributions to such date, succeeding the period with respect to which they have accrued, as he or she deems advisable; or

(2) In his or her discretion, upon such finding or upon the request of an employer, prescribe payment of contributions from such employer monthly rather than quarterly.

(i) At the end of each calendar quarter, or as soon thereafter as possible, the division shall send to each employing unit, which makes payments in lieu of contributions, except state government employing units, a quarterly listing of benefit charges showing the amount of regular and extended benefits paid to claimants during

such quarter based on wages paid by such employing unit and charged to such employing unit.

(j)(1) At the end of each calendar quarter, or as soon thereafter as possible, the director shall bill the Department of Finance and Administration for all regular and extended benefits chargeable to state government employing units.

(2) The department shall pay such billings within thirty (30) days after the date the director mails or otherwise delivers such billings to the department.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 6"

"The following Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to 11-10-701, 11-10-713, 11-10-401-403, 11-10-318 and 11-10-716:"

"This amended Rule shall take effect and be in full force on and after January 1, 2008."

History. Ark. R. 2025-2 (eff. June 12, 2025)

11 CAR § 1-206. Termination of coverage.

(a) Except as otherwise provided in Arkansas Code § 11-10-403 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., the following employing units shall cease to be employers subject to said law, either upon approval by the Director of the Division of Workforce Services of their application for termination of coverage or upon determination of the facts and decision by the director on his or her own initiative:

(1) Any employing unit having its base of operations or point of control either within or without this state, but which has not had any individuals in employment throughout a period of two (2) complete calendar quarters and does not anticipate having individuals in employment in the state; and

(2) Any employing unit, the base of operations or point of control of which is either within or without this state, and which terminates its business for any reason whatsoever or sells its business or assets to another.

(b) Each employing unit so ceasing to be an employer shall:

(1) Render a report of such cessation promptly to the director, in accordance with 11 CAR § 1-211; and

(2) Likewise promptly notify the director in case of any resumption of business.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 8"

"This Rule is hereby amended, promulgated, and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-402:"

"This amended Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-207. Seasonal industries, employer reports, and benefits.

(a) **Definitions.** As used in this section, unless the context clearly requires otherwise:

(1)(A) "Industry" means all of that group of employers classified under the same four-digit Standard Industrial Classification code of the Social Security Administration, except that when the Director of the Division of Workforce Services

finds that any such industry includes one (1) or more groups of employers who are distinct in nature from the remainder of employers in such industry, and that these groups are sufficiently large and homogenous, the director may set up appropriate subclassifications within such industry and treat such subclassifications as a separate industry.

(B) The director shall notify the Division of Workforce Services Advisory Council quarterly of any request for change in subclassification status;

(2) "Nonseasonal benefits" means unemployment insurance benefits based on nonseasonal earnings as defined in this section;

(3) "Nonseasonal earnings" means wages paid in nonseasonal employment as defined in this section;

(4) "Nonseasonal employment" means employment:

(A) By an employer in an industry which had not previously been determined by the director to be a seasonal industry; or

(B) Outside the normal seasonal period of operations of an industry subsequent to that industry's having been determined by the director to be a seasonal industry;

(5) "Seasonal benefits" means unemployment insurance benefits based on seasonal earnings as defined in this section;

(6) "Seasonal earnings" means wages paid in seasonal employment as defined in this section; and

(7) "Seasonal employment" means employment by an employer within the normal seasonal period of operation of an industry subsequent to that industry having been determined by the director to be a seasonal industry.

(b) Determinations of seasonal industry.

(1)(A) A determination on a seasonal industry and its normal seasonal period of operations shall apply to each employer in the industry.

(B) Each employer shall be promptly notified of any determination affecting its industry.

(C) Each employer in an industry determined seasonal shall keep posted conspicuously a notice provided by the Division of Workforce Services notifying employees of the determination and informing them that their benefit rights are subject to the restrictions imposed by the determination and by this section.

(2)(A) Upon the initiation of a study to determine whether an industry should continue to be classified as seasonal, the director shall notify all active employers within that industry of the study.

(B) The director shall:

(i) As part of the study, schedule a hearing to consider the continuation of the seasonal classification; and

(ii) Notify all of the active employers in the industry of the time and place for such hearing, thereby affording the opportunity to attend and participate in the hearing.

(C) Such hearing notification shall be posted by the employer with other notices provided by the division as stated in subdivision (b)(1) of this section, above.

(c) **Seasonal employer reports.** Each employer in a seasonal industry shall:

(1) Keep separate account of wages paid to employees within and without the normal seasonal period of operations; and

(2) Report these wages on a special seasonal quarterly report form provided by the division.

(d) **Payment of benefits to seasonal workers.**

(1)(A) The weekly benefit amount and the maximum benefit amount of any claimant who is a seasonal worker shall be calculated in the usual manner as prescribed by the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., but seasonal benefit rights shall be used in the payment of such worker's benefits only when the benefits accrue during weeks of unemployment within the normal seasonal operating period of the industry.

(B) A week of unemployment shall be deemed to be "in", "within", or "during" the normal seasonal period if four (4) or more days of the week are included therein.

(2)(A) In calculating any benefit determination for a seasonal worker as provided in subdivision (d)(1) of this section, there shall be stated, in addition to the weekly and maximum benefit amounts, the amount of:

(i) Seasonal benefits which may be payable only for unemployment occurring within the normal seasonal period of a seasonal industry; and

(ii) Nonseasonal benefits, if any.

(B) Seasonal benefits and nonseasonal benefits may be payable to a seasonal worker in an aggregate amount equal to his or her maximum benefit amount for weeks of unemployment occurring during the normal seasonal operating period of the industry, provided that nonseasonal benefits shall be payable to such worker for unemployment in such period only if his or her seasonal benefits have previously been exhausted.

(C) Nonseasonal benefits shall be payable to a seasonal worker for weeks of unemployment occurring outside such period but shall:

(i) Be based only on wages paid in nonseasonal employment; and

(ii) Not be payable in an aggregate amount greater than the seasonal worker's maximum benefit amount determined according to Arkansas Code §§ 11-10-501 – 11-10-505, less the amounts of any benefits which have previously been paid to such worker during the same benefit year.

(3) Benefits paid to a seasonal worker shall be charged to an employer's experience rating account in the following manner:

(A) Seasonal benefits paid shall be prorated only on the basis of seasonal base period wages and charged in the manner prescribed in Arkansas Code § 11-10-703, to the separate account or accounts of the base period employer or employers that paid the seasonal wages; and

(B) Nonseasonal benefits paid shall be prorated only on the basis of nonseasonal, base period wages and charged in the manner prescribed in Arkansas Code § 11-10-703, to the separate account or accounts of the base period employer or employers that paid the nonseasonal wages.

(4) No wages shall be deemed seasonal if earned prior to the effective date of the determination of such industry as seasonal by the director.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 9"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-506, to read as follows:"

"This amended Rule shall take effect and be in full force on and, after July 1, 1989."

11 CAR § 1-208. Group accounts.

(a) An application for a group account shall show:

(1) Name, address, and established Division of Workforce Services account number of member employing units;

(2) Name and address of the authorized group representative;

(3) Signatures of each employing unit member; and

(4) An authorization for the representative named by the group to:

(A) Act for the group; and

(B) Allocate the determined legal liability to each member of the group.

(b) A group account shall be terminated upon request received not less than one (1) calendar quarter prior to the proposed effective date or at the discretion of the Director of the Division of Workforce Services.

(c) The division shall:

(1) Issue a quarterly listing within thirty (30) days after the close of a calendar quarter, or as soon thereafter as possible, for each group account with respect to the combined benefit charges of all members of the group; and

(2) Mail such listing to the last known address of the authorized representative of the group.

(d) An active employing unit which is a member of a continuing group account may withdraw from such group provided that:

(1) If there are two (2) or more employers remaining in the group, the authorized representative submits an amended application notifying the division of such intention not less than one (1) calendar quarter prior to the effective date of withdrawal; and

(2) If the withdrawal will eliminate the group account, the authorized representative shall file an amended application to terminate the group status not later than one (1) quarter prior to the effective date of such application.

(e) An active employer may be added to an existing authorized group account provided that the authorized representative submits an amended application to the division for approval no later than one (1) calendar quarter prior to the effective date of the proposed amended group account.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 10"

"The following Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-713:"

"This amended Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-209. Contribution rates, voluntary payments, and election of annual payroll.

(a)(1) Pending a redetermination of the rate of contribution payable by an employer where an application for a review and redetermination has been filed, the employer shall be liable for the payment of contributions at the rate as determined by the Division of Workforce Services.

(2) If the contribution rate is changed by reason of this review and redetermination, the division shall, without application by the employer, make an adjustment thereof in connection with subsequent contribution payments.

(b) All voluntary payments to the Unemployment Compensation Trust Fund Account made by an employer under Arkansas Code § 11-10-705 shall be so identified by the employer when the payment is made.

(c) Any employer that has been subject to three (3) or more years of benefit risk immediately preceding the computation date, and that voluntarily elects to use as its average annual payroll the total taxable wages paid by it during the preceding calendar year, shall for each rate year give written notice of such election to the division not later than July 31 immediately preceding the rate year.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 11"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-218 and 219; and 11-10-704, 705, 707 and 708 to read as follows:"

"This Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-210. Employing units — Keeping of records.

(a) Each employing unit shall keep payroll records regarding any individual employed by it so that from an inspection thereof it shall be possible to determine with respect to each worker in its employ:

- (1) The pay period covered by any payroll;
 - (2) The Social Security number of each worker employed during any pay period;
 - (3) The full name of each worker employed during any pay period;
 - (4) The place of employment;
 - (5) The date each worker was hired, rehired, or returned to work after a temporary layoff;
 - (6) All remuneration including commissions and bonuses paid to each worker for personal services with respect to any day of work, in each case showing separately:
 - (A) Cash remuneration;
 - (B) The reasonable value of a remuneration in any medium other than cash; and
 - (C) Special payments, such as bonuses, gifts, prizes, etc., showing separately those paid in cash and those paid in any medium other than cash;
 - (7) Amounts paid the worker as allowance or reimbursement for traveling or other business expenses, dates of payment, and the amounts of such expenditures actually incurred and accounted for by him or her; and
 - (8) With respect to pay periods in which he or she performs both employment and nonsubject work, the number of:
 - (A) Hours spent in employment; and/or
 - (B) Hours spent in nonsubject work.
- (b) The place of employment of any worker shall be the county within Arkansas:
- (1) In which he or she performs his or her work;

(2) In which he or she has his or her base of operations, if he or she performs his or her work in more than one (1) county in Arkansas;

(3) From which he or she received his or her principal or immediate direction or control, if he or she has no base of operations in Arkansas; or

(4) In which he or she resides, if the place from which he or she received his or her principal direction or control is outside of Arkansas.

(c)(1) It shall be the responsibility of the employing unit to make such records available for inspection at a specified location in the state of Arkansas.

(2) If the location is not at the employer's principal place of business, it shall be subject to approval by the Division of Workforce Services.

(d) All employer records designated in this section shall be preserved and made available for purposes of inspection for a period of not less than five (5) years from the end of the month next following the end of the calendar quarter to which such records pertain.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 12"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-318 to read as follows:"

"This amended Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-211. Employing units — Provision of records to the Division of Workforce Services.

(a) Information requested in report forms provided by the Division of Workforce Services shall be provided by the employing unit in accordance with instructions accompanying the forms.

(b) Every individual or legal entity which becomes an employing unit as defined in Arkansas Code § 11-10-208 shall, on or before the last day of the month next following the month during which it became an employing unit, file with the division an initial Report to Determine Liability form and such additional reports as the Director of the Division of Workforce Services may require for the purpose of determining whether it is an employer as defined in Arkansas Code § 11-10-209.

(c) Any employing unit that employs workers during any calendar year which considers that it is not an employer as defined in Arkansas Code § 11-10-209 must establish such proof by submitting contracts, reports, and/or other documents with the Report to Determine Liability form.

(d) Any employer:

(1) That terminates its business for any reason whatsoever, or transfers or sells all or a substantial part of the assets of its organization, trade, or business to another or changes the trade name of such business or address shall:

(A) Within ten (10) days after such termination, transfer, or change of name or address, give notice in writing to the division of that fact; and

(B) Set forth in such notice the former name and address of the business, the new name and address of the business, the name of any new owner, and the employer's own name and present address; and

(2) Shall immediately notify the division of the commencement of any receivership or similar proceedings, or of any assignment for benefit of creditors or any order of court under the laws of Arkansas with respect to the foregoing or of the filing of any voluntary or involuntary petition in bankruptcy or other proceedings under the federal Bankruptcy Act, 11 U.S.C. § 101 et seq.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 13"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-318 to read as follows:"

"This Rule shall take effect and be in full force on and after January 1, 1988."

11 CAR § 1-212. Notice of claims filed and benefits charged, employer response, and noncharge rights.

(a)(1) Notice of an initial or additional claim filed shall be mailed or otherwise provided by the Division of Workforce Services to the employing unit known to the claimant as his or her last employer.

(2) This notice shall request that the employer immediately furnish pertinent information to the division.

(3)(A) The last employer shall have ten (10) days from the date the notice was mailed or otherwise provided by the division to file its response.

(B) If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope.

(4) Provided that if it is determined by the Director of the Division of Workforce Services that the response was not filed within the ten-day period as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.

(b)(1) Notice to base period employer of an initial claim filed shall be mailed or otherwise provided to each affected base period employer who is not also a last employer.

(2) This notice shall request that the employer furnish the division pertinent information.

(3)(A) The requested information shall be filed with the division immediately but no later than fifteen (15) days after the date the notice was originally mailed or otherwise provided by the division.

(B) If mailed, the response shall be considered to have been filed as of the date of the postmark on the envelope.

(4) Provided that if it is determined by the director that the response was not filed within the fifteen (15) day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.

(c)(1) Requests for separation information shall be mailed or otherwise provided by the division to the employing unit known to the claimant as his or her last employer.

(2)(A) This request shall notify the last employer of the deadline for providing the requested information to the division.

(B) If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope.

(3) Provided that if it is determined by the director that the response was not filed within the specified time in the request for separation information as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.

(d) Upon commencement of a labor dispute, the affected employer shall, upon request, promptly furnish the nearest division office a list, in duplicate, showing the names and Social Security numbers of the unemployed workers and the last day of employment for each worker, with the further information that the unemployment is due to a labor dispute at the factory, establishment, or other premises where the workers were last employed.

(e)(1)(A) An employer, upon request, shall furnish to the division wage information for workers filing claims in another state under an approved interstate combined-wage plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report.

(B) An employer shall furnish such information within ten (10) days from the date the request is mailed.

(2)(A) Whenever an employer fails to provide wage information as requested for an interstate combined-wage plan claim within the required ten (10) days from the time the request is mailed, the division will establish the claimant's wage credits on the basis of the claimant's written statement of wages received for such employment with said employer supplemented by such other evidence as may be available and satisfactory to the division.

(B) Except, as provided under Arkansas Code § 11-10-106 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., if it is determined that the wage information supplied by the claimant is erroneous, no penalty shall be imposed on the claimant.

(3) A report of wages made on the basis of the claimant's written statement shall be adjusted, if necessary, upon receipt of information from an employer and such adjusted report will be delivered to the paying state for the appropriate adjustment of further benefits, if any, payable to the claimant under the approved interstate combined-wage plan on the basis of such wage credits.

(f)(1) Except as hereinafter provided, a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code § 11-10-703 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., unless it has timely responded in compliance with subsection (a) of this section.

(2)(A) It shall be assumed that any last employer that fails to respond in compliance with subsection (a) of this section agrees that the reason for separation as given by the claimant is correct.

(B) Its failure to respond shall not affect its noncharge rights if the reason for separation given by the claimant would have otherwise resulted in the noncharging of benefits to the employer's account.

(3) The employer's failure to timely respond, however, shall constitute a waiver of any right it may have to protest charges to its experience rating account of benefits paid as a result of such nonmonetary determination.

(g)(1)(A) No employer's account shall be relieved of charges arising from an overpayment of benefits as provided in Arkansas Code § 11-10-703 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., if:

(i) The overpayment of benefits is the result of the failure of the employer or the employer's agent to respond timely or adequately to a request for information from the division; and

(ii) The employer's agent has established a pattern of failing to respond to such requests.

(B) As used in this part:

(i) "Adequately" means the employer or the employer's agent substantially and accurately completed the division's forms with sufficient factual information necessary to render an accurate determination of eligibility for unemployment insurance benefits;

(ii)(a) "Pattern" means, in the preceding calendar quarter, the employer or the employer's agent failed to timely or adequately respond to at least fifty-one percent (51%) of requests for information sent to it by the division related to the establishment of an unemployment insurance claim.

(b) However, an employer that is party to five (5) or fewer potentially disqualifying determinations during the preceding calendar quarter shall not be deemed to have a pattern of failing to timely or adequately respond unless it has failed to respond to at least three (3) requests for information in the preceding calendar quarter; and

(iii)(a) "Timely" means the employer or the employer's agent responded to the division's written requests for information as specified on the form.

(b) Provided that if it is determined by the director that the response was not timely as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.

(2)(A) At the end of each calendar quarter, or as soon thereafter as possible, the division shall notify an employer or its agent of the intent to place the employer on

a list of employers that have been determined to have established a pattern of failing to timely or adequately respond to requests for information from the division.

(B)(i) The notification shall become conclusive and binding upon the employer unless within fifteen (15) days after the mailing of the notice the employer requests an administrative review of the notice issued by the division.

(ii) Provided that if it is determined by the director that the response was not filed within the fifteen-day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.

(C) An employer that is determined to have established a pattern of failing to timely or adequately respond to requests for information shall continue to remain on the list of employers ineligible to be provided relief from charges pursuant to Arkansas Code § 11-10-703(a)(6) until the employer has responded timely or adequately to requests for information for two (2) consecutive calendar quarters.

(3) Determinations by the division prohibiting the relief of charges pursuant to subsection (g) of this section shall be subject to protest or appeal as set forth in Arkansas Code § 11-10-707 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq.

(h)(1) An affected base period employer not also a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code § 11-10-703 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., unless it has timely responded in accordance with subsection (b) of this section.

(2) In addition, any employer seeking to qualify for noncharging under the part-time provision of Arkansas Code § 11-10-703 of the Division of Workforce Services Law, Arkansas Code § 11-10-101 et seq., shall provide such information on wages and hours of work as the director shall request.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 15"

"This Rule is hereby amended, promulgated and adopted by the Director of the Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-703 to read as follows:"

"This amended Rule shall take effect and be in full force on and after March 1, 2014."

11 CAR § 1-213. Lessor employing units.

(a)(1) Any lessor employing unit desiring to post a bond with the Division of Workforce Services in accordance with Arkansas Code § 11-10-717(e), shall:

- (A) Also execute a surety bond prepared or approved by the division; and
- (B) Provide the division with any information necessary to prepare this

bond.

(2) Any bond not prepared by the division shall be submitted to the division for approval prior to its being executed.

(b)(1) Any lessor employing unit depositing cash or securities with the division in accordance with said Arkansas Code § 11-10-717(e) shall:

(A) Also execute an assignment and escrow agreement prepared by the division; and

(B) Provide the division with any information necessary to prepare the agreement.

(2) This agreement shall contain a provision which the lessor employing unit consents to an audit of its records prior to the release or cancellation of the securities tendered with the agreement.

(c)(1) Any securities deposited with the division pursuant to said Arkansas Code § 11-10-717(e) shall be accompanied by the signed statement of a licensed broker identifying each security and setting forth its current market value.

(2) Thereafter, on or before the tenth day of each month, the lessor employing unit shall submit:

(A) A statement signed by a licensed broker setting forth the market value on the first business day of that month of each security so deposited; and

(B) An attestation by said broker stating that he or she has no interest in and is not affiliated in any way with the lessor employer or the corporations that issued the stocks included in the said market value statement.

(3) Should the combined value of those deposited securities be less than the required amount, the lessor employing unit shall immediately deposit additional securities to raise the value to the required amount.

(d) By the end of February each year, the Director of the Division of Workforce Services shall notify any lessor employing unit that has posted a corporate surety bond or deposited marketable securities with the division of the dollar amount required for that year to comply with the provisions of said Arkansas Code § 11-10-717(e).

(e)(1) The obligation for payment, and/or the bond securing payment, of unemployment contributions pursuant to Arkansas Code § 11-10-717(e) shall not be released until the division is satisfied, either by audit or otherwise, that all contributions liability on account of the bond has been paid.

(2) This subsection (e) of this section shall not be construed to:

(A) Increase the liability of the surety in excess of the face amount of the bond regardless of the period of time the bond remains in effect; nor

(B) Affect the right of any surety to terminate the bond in accordance with the terms of the bond.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 20"

"The following Rule is hereby promulgated and adopted by the Director, Arkansas Department of Workforce Services pursuant to Arkansas Code 11-10-717(e):"

"This Rule shall be in full force and effect on and after January 1, 1998."

11 CAR § 1-214. Determination of employer when sickness or accident disability payments are made by a third party.

(a)(1) Any third party making a payment on account of sickness or accident disability which payment is not excluded from the term "wages" under Arkansas Code § 11-10-215(2)(B) shall be treated as the employer with respect to such wages, except as may be provided in subsections (b) and (c) below.

(2) Accordingly, such third party must pay the contributions or make payments in lieu of contributions as imposed on employers by and in accordance with the provisions of Arkansas Code §§ 11-10-701 – 11-10-715(a).

(b)(1) If any third party that is treated as the employer solely by reason of its having made a payment on account of sickness or accident disability which payment is not excluded from the term "wages" under Arkansas Code § 11-10-215(2)(B) notifies the employer for which services are normally rendered of the amount of the payment made on account of sickness or accident, then the employer for which services are normally rendered (and not the third party) shall be required to:

(A) Pay the contributions; or

(B) Make payments in lieu of contributions as imposed on the employer by, and accordance with, the provisions of Arkansas Code §§ 11-10-701 – 11-10-715(a).

(2) Such notification must be made or postmarked on or before the seventh day following the last day of the calendar quarter in which the payment was made.

(c)(1) Any third party making a payment on account of sickness or accident disability to an employee as agent for the employer or making such a payment directly

to the employer shall not be treated as the employer with respect to such payment unless the agency agreement so provides.

(2) An agency relationship is established if the third party bears an insurance risk, or is reimbursed on a cost plus fee basis, even if the third party is responsible for making determinations of the eligibility of individual employees of the employer for whom services are normally rendered for payments on account of sickness or disability.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 26"

"The following Rule is hereby promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-215):"

"This Rule shall take effect and be in full force on and after July 1, 1987."

11 CAR § 1-215. Employer coverage hearings.

(a)(1) The hearing officer in employer coverage matters shall be a person designated as such in writing by the Director of the Division of Workforce Services.

(2) Such designation shall remain in effect until such time as it is revoked in writing by the director.

(b)(1) All employer coverage hearings shall be conducted at the administrative office of the Division of Workforce Services in Little Rock by telephone, or in person at the discretion of the hearing officer.

(2) The hearing officer shall set the time and date of such hearings, giving reasonable notice to all interested parties.

(3) The hearing officer may, upon his or her own motion or upon request of a party for good cause shown, reschedule the hearing time and/or date provided such request is received prior to the scheduled time of the hearing.

(c) The hearing officer may require the parties, prior to the hearing, to provide to him or her and/or to exchange with each other information including, but not limited to:

- (1) Names and addresses of representatives who are to appear;
- (2) Names, addresses, and telephone numbers of potential witnesses;
- (3) Lists and descriptions of exhibits to be introduced; and
- (4) Theories of liability or nonliability, including citations to pertinent statutes and case precedent.

(d)(1) The hearing officer shall conduct himself or herself in an impartial manner and may at any time withdraw if he or she deems himself or herself disqualified.

(2) Any party may file an affidavit of personal bias or disqualification, which shall be ruled on by the hearing officer and granted if timely made, sufficient, and filed in good faith.

(3)(A) If the hearing officer withdraws, he or she shall so advise the director in writing.

(B) The director shall then appoint another hearing officer to conduct the hearing from which the usual hearing officer has disqualified himself or herself.

(e) The hearing officer shall have power to:

- (1) Administer oaths and affirmations;
- (2) Take depositions;
- (3) Issue subpoenas to compel the:
 - (A) Attendance of witnesses; and
 - (B) Production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence;
- (4) Maintain order;
- (5) Rule upon all questions arising during the course of a hearing;
- (6) Generally regulate and guide the course of the pending proceeding; and
- (7) Make recommended decisions to the director.

(f) Any person or party appearing at a hearing shall have the right to be accompanied and advised by legal counsel.

(g)(1) The hearing officer shall not be bound by common law or statutory rules of evidence or by technical rules of procedure.

(2) However, any hearing shall be conducted in such manner as to ascertain the substantial rights of the parties.

(h) Parties shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(i)(1) Official notice may be taken of judicially cognizable facts and of generally recognized technical facts within the division's specialized knowledge.

(2) Parties shall be notified of material so noticed, including any staff memoranda or data, and shall be afforded reasonable opportunity to show the contrary.

(j)(1) A record shall be kept of all testimony and proceedings.

(2) However, the testimony will not be transcribed unless the hearing officer's determination is appealed.

(k) The hearing officer shall issue recommended findings of fact and, on the basis thereof, recommended determinations for the director's approval and signature with respect to employer coverage.

(l) If the party which made application for the hearing fails, without good cause shown, to appear at the scheduled hearing, the hearing officer shall:

(1) Admit into the record the relevant division file or files; and

(2) Make his or her determination on the evidence contained therein and any evidence submitted by any interested party or parties who appear for the scheduled hearing.

(m) In case of refusal to obey a subpoena issued by the hearing officer, such hearing officer shall have the power to continue the hearing, on his or her own motion or on motion of the party who requested the subpoena, until such time as the person who refuses to obey the subpoena is either ordered to comply with or is relieved of complying with said subpoena by a court of competent jurisdiction.

Authority. Arkansas Code § 11-10-306.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 27"

"This Rule is hereby amended, promulgated and adopted by the Director, Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-306, 308, 315 and 316 to read as follows:"

"This Rule shall take effect and be in force on and after July 31, 2011."

Subpart 3. Training Trust Fund Program

11 CAR § 1-301. Training Trust Fund Program.

(a) The Division of Workforce Services Training Trust Fund Program is hereby established pursuant to Acts 2007, No. 551, as enacted by the Arkansas General Assembly.

(b) **Purpose.**

(1)(A) The purpose of the Division of Workforce Services Training Trust Fund Program is to provide for innovative training support opportunities for qualified Arkansas employers.

(B) Specifically, the Division of Workforce Services Training Trust Fund will primarily be used to support Arkansas employers in their respective efforts to provide training for prospective, new, and incumbent workers.

(C) The benefit of the fund is that it can be used to help fill certain gaps in skills development training that may be otherwise unavailable.

(2) The fund initiative will be coordinated with both the:

(A) Arkansas Existing Workforce Training Program, which is administered by the Arkansas Economic Development Commission; and

(B) Arkansas Incumbent Worker Training Program, which is administered in accordance with the federal Workforce Investment Act of 1999 by the Arkansas Workforce Investment Board [abolished].

(c) Who may apply for the funds.

(1)(A) Any for-profit or nonprofit employer that has been in operation in Arkansas during the entire twelve-month period immediately preceding the date of application.

(B) Exceptions may be considered on an individual basis.

(2) Employers making application for training funds must be current on all tax obligations, and there must not currently exist any ongoing or pending litigation concerning the employer's tax liability, either federal or state.

(d) How to apply.

(1)(A) Employers must submit an application to the Director of the Division of Workforce Services, # 2 Capitol Mall, PO Box 2981, Little Rock, AR 72203, a minimum of thirty (30) days prior to commencement of training.

(B) Questions can be answered by calling 1-855-225-4440 or 501-682-2121.

(2) Applications must include a clear description of proposed training to include the proposed training provider and projected cost.

(3) Exceptions may be considered on an individual basis.

(e) Requirements for applicant employers to utilize these training funds.

(1) The employer must:

(A) Specify a target group of individuals and the type of training to be conducted; and

(B) Provide projected outcomes that are tangible and measurable.

(2) Each trainee must be at least eighteen (18) years of age.

(3) Each trainee must be a United States citizen or authorized to legally work in the United States.

(4) If the trainee is a male born after 12/31/1959, he must be in compliance with the selective service registration requirements.

(5) Provide assurance that participants involved in the proposed training possess the prerequisite literacy skills.

(6) The employer must clearly articulate the relationship of the proposed training to specific goals and performance objectives relative to correction, prevention, or improvement, i.e., training on new equipment to increase production, reduce production cost and reduce waste by recycling.

(f) Application priority will be given to employers:

- (1) That can avoid layoffs by incumbent worker training;
- (2) That can maintain and/or create new jobs by training prospective employees;
- (3) That seek to upgrade employee skills and increase productivity;
- (4) Whose funding request is to provide training and employment opportunities to recipients of public assistance and other low-income individuals;
- (5) That can certify expansion; and
- (6) That will replicate the training internally, the train the trainer concept.

(g) Allowable use of funds:

- (1) Training on use of cutting-edge technology and equipment;
- (2) Training to meet employer or industry-specific skill requirements;
- (3) Train the trainer;
- (4) The purchase and/or development and production of training materials necessary to conduct the approved training;
- (5)(A) To compensate state supported institutions of higher education (two/four year Arkansas colleges/universities, technical schools), the Arkansas Workforce Investment Board [abolished] approved training providers and approved company consultants and contract instructors, as well as internal trainers for conducting prescribed training.

(B) Employer must provide certification of consultants and other contract instructors.

- (C) Training may be:
- (i) In a traditional classroom;
 - (ii) On-the-job training;
 - (iii) Distance-learning lab;
 - (iv) Workshops;
 - (v) Seminars;
 - (vi) Site-based training; or
 - (vii) Computer-based training; and

(6) Other training methods as approved by the director.

(h) **Nonallowable use of funds:**

- (1) Cost incurred prior to the approved date of application;
- (2) Construction or purchase of facilities or buildings;
- (3) Relocation expenses;
- (4) Employment or training in sectarian activities;
- (5) Lobbying activities;
- (6) Trainee wages; and
- (7) Exceptions may be considered on an individual basis.

(i) **Assurances:**

(1) The applicant (employer) assures that records of expenditures of funds under this agreement shall be made available for inspection by division audit staff or state auditors, as required;

(2) The applicant (employer) assures that no person shall be excluded from training on the basis of:

- (A) Race;
- (B) Color;
- (C) National origin;
- (D) Age;
- (E) Religion;
- (F) Marital status;
- (G) Sex; or

(H) Disability;

(3) The applicant (employer) assures that in the event of a labor dispute or strike, the director may postpone or cancel the funding of training support;

(4) The applicant (employer) understands that this agreement may be canceled by the director by written notification at least fourteen (14) days prior to cancellation, or immediately, if funds are not available;

(5) The applicant (employer) agrees that the terms of this agreement may be changed by common consent; and

(6) The applicant (employer) assures that provision will be made for submission of a final report, which will include a description of the funded program with quantifiable outcomes.

(j) The review of applications will be coordinated with the following state agencies:

(1) Arkansas Economic Development Commission;

(2) Arkansas Workforce Investment Board [abolished]; and

(3) Division of Workforce Services.

Authority. Arkansas Code § 11-10-306.

Codification Notes. The Workforce Investment Act of 1998, Pub. L. No. 105-220, was substantially amended by the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Rule No. 29"

"This Rule shall take effect and be in full force on and after October 1, 2011."