



## OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

Clearance #5164  
Title: Unemployment Compensation Change Rules 2004  
(To comment, please click inside the red box)

### INTER OFFICE COMMUNICATIONS

To: All Clearance Reviewers  
From: Douglas J. Holmes, Asst. Deputy Director, Office of Unemployment Compensation  
Date: October 01, 2003  
Subject: Modification of certain rules related to unemployment compensation

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As part of a periodic review of administrative rules contained in Chapter 4141 of the Ohio Administrative Code, the following rules are being modified, proposed, or rescinded to update, clarify, or make technical changes to the rules based on recommendations from internal staff and customers.

Rule Number	Rule Title
4141-9-09	Valuation of meals and lodging
4141-11-01	Quarterly reports and due date
4141-11-14	Method of payment, clearance of checks, and dishonored checks

4141-15-04	Assignment of average contribution rate for employers engaged in the construction industry
4141-23-01	Records of employers
4141-27-01	Application for determination of benefit rights
4141-27-04	Filing claims for benefits
4141-27-05	Time limitation for filing claim for benefits within benefit year
4141-27-06	Deferred reporting
4141-27-08	Corrected determinations and decisions
4141-27-09	Requests for redetermination and appeal
4141-27-10	Timeliness of appeals
4141-27-11	Establishing benefit year beginning date and additional reporting
4141-29-01	Registration while claiming benefits
4141-29-03	Sports and athletic employment
4141-31-01	Interstate claims
4141-43-03	Disclosure of wage information to a consumer reporting agency
4141-48-01	Definitions for Alternative Trade Adjustment Assistance for older workers

Should you have any questions concerning this clearance, please contact me.

cc: Pat Power  
Joseph Duda  
William Lind

**\*\*\* DRAFT – NOT FOR FILING \*\*\***

4141-9-09      **Valuation of meals and lodging.**

- (A) When the cash value of meals and/or lodging furnished an employee is fixed under the terms of a bona fide written agreement between the employer and the employee, the amount so agreed upon shall be deemed the cash value of such meals and/or lodging.
- (B) In the absence of a bona fide written agreement between an employer and an employee fixing the cash value of meals and/or lodging furnished, remuneration in the form of meals and lodging shall be on the following basis: breakfast, ~~three~~seven dollars; lunch, ~~four~~eight dollars; dinner, ~~six~~fifteen dollars; lodging per day, ~~twenty~~sixty dollars.
- (C) This rule is not applicable to an individual performing services as a domestic or agricultural worker. Liability for these workers is determined solely on cash remuneration.
- (D) The value of meals and lodging which is not considered to be remuneration is provided in rule 4141-9-04 of the Administrative Code.

**\*\*\* DRAFT – NOT FOR FILING \*\*\***

4141-11-01      Quarterly reports and due date.

(A) When a contributory employer first becomes subject to the provisions of Chapter 4141. of the Revised Code, it shall file all quarterly reports required by section 4141.20 of the Revised Code until written permission is granted by the director to discontinue such filing. The quarterly reports must be filed in the manner prescribed by the director. Quarterly reports are due no later than the last day of the month following the close of the calendar quarter for which the reports are being filed. Quarterly reports are delinquent and subject to forfeitures if not filed on or before the due date.

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4141-11-14      **Method of payment, clearance of checks, and dishonored checks.**

- (A) Payment of contributions or payment in lieu of contributions shall be made by check, money order, cashier's check, certified check, cash payment or other methods of payment approved by the director ~~at the office of the "department of job and family Services, 4300 Kimberly Parkway, Columbus, Ohio," or~~ and may be made by mail to ~~"department of job and family~~ Department of Job and Family Services, Post Office Box ~~923~~182404, Columbus, Ohio ~~43216~~43218-2404," or upon demand to a duly authorized representative of the department.
- (B) An employer's account will be credited as of the postmark date of the payment only if the check, upon presentation, clears the employer's bank.
- (C) Any employer whose contribution, payment in lieu of contribution, forfeiture, interest, or other payment is paid by check, which is returned for reason of insufficient funds or for any other reason, may be denied the privilege of making future payments by check. In the event such denial is made, payments thereafter shall be made in one of the following media: cash, money order, certified check, or cashier's check or other methods of payment approved by the director.

**\*\*\* DRAFT – NOT FOR FILING \*\*\***

4141-15-04      **Assignment of average contribution rate for employers engaged in the construction industry.**

For the purpose of assigning an average contribution rate for employers engaged in the construction industry pursuant to division (A)(1) of section 4141.25 of the Revised Code, the director shall assign the average contribution rate attributable to the construction industry group as reflected in report ~~rs-203:2~~[RS 203.2](#). The average contribution rate for employers in the construction industry shall be assigned based upon the most recent report ~~rs~~[RS](#) 203.2 issued prior to the contribution period throughout which such rates are to be effective and shall be rounded to the nearest tenth of one per cent.

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4141-23-01      **Records of employers.**

- (A) True and accurate permanent employment and payroll records shall be maintained by every employer who has in its employ one or more individuals. Such records shall show, with reference to each and every individual in employment, the following:
- (1) Name and address;
  - (2) Social security account number;
  - (3) The amount of gross earnings for each pay period before deductions for any purpose;
  - (4) The date of payment and the amount of wages paid with respect to each separate pay period;
  - (5) The date or dates on which services were performed for such employer; also, the dates hired or rehired or returned to work after temporary layoff, as well as the date on which services were terminated and the cause of such termination;
  - (6) The time lost due to being unavailable for work;
  - (7) The character of the services performed by the individual;
  - (8) A division between covered and excluded employment, when both such services appear in the same pay period; and
  - (9) The cash value of any remuneration in lieu of or in addition to cash wages.
- (B) On request by the director, every employer, organization or association shall make available those records necessary for the director to perform audits. Such records shall include, but are not limited to: general ledgers; charts of accounts; federal income tax returns; social security reports (form 941); federal unemployment tax act reports (form 940); other reports to the United States internal revenue service (forms W-2, and W-3, 1096 and 1099); individual earnings records; payroll summaries; contribution and wage reports made to the department (~~forms UCO-2e and UCO-2q~~); workers' compensation reports; city and state payroll reports; check registers; trial balances; balance sheets; income statements; master vendor lists; canceled checks; bank statements; and combined cash journals.
- (C) Payroll and employment records shall be made available by the employer for audit at the employer's place of business, or at the office of its duly authorized representative, during regular daytime business hours.

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- (D) On discontinuance of the business or any part thereof, the employer shall notify the director as to where the records are to be kept and make such records available for audit in the state of Ohio.
- (E) Such permanent employment and payroll records shall be kept and maintained so as to establish clearly the correctness of all reports which the employer is required to file with the director and, in addition, shall contain memoranda to establish the extent to which such employers are liable for contributions or payments in lieu of contributions.

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4141-27-01      **Application for determination of benefit rights.**

(A) Application for determination of benefit rights shall be made by individuals in a manner prescribed by the director. An individual shall furnish his or her social security account number, the social security numbers of the applicant's spouse and other individuals claimed as dependents and any other information necessary to make a determination of the application. An individual may be permitted to file an application for determination of benefit rights by telephone or other electronic means as provided by rule 4141-19-01 of the Administrative Code if one or more of the following factors apply:

(1) The individual resides in Ohio at the time of application, or

(2) The individual had Ohio employment as defined in section 4141.01 of the Revised Code, or

~~(3) The individual is seeking employment in Ohio at the time of the application, or~~

~~(4)~~(3) The individual is physically present in Ohio at the time of the application.

(B) The director shall examine the first claim for benefits filed in any benefit year, and any additional claim, and on the basis of any facts found by the director, determine whether the claimant's most recent separation and, to the extent necessary, prior separations from work are disqualifying separations under division (D)(2) of section 4141.29 of the Revised Code. However, where a claimant has been employed in covered employment for six weeks or more with the claimant's most recent separating employer and earned or has been paid an amount for all such weeks which is six times twenty-seven and one half percent of the state average weekly wage as computed under division (B)(3) of section 4141.30 of the Revised Code, separations prior to the claimant's most recent separation shall not be examined.

(C) If the director determines that the most recent separation or a separation which occurred prior to the week for which the claim is filed is disqualifying, the director shall disqualify the claimant for the duration of his or her unemployment as defined in division (G) of section 4141.29 of the Revised Code.

(D) If the claimant is or was in concurrent employment with two or more employers prior to his most recent separation, and the claimant quit employment with one of the employers, such quit will be considered non-disqualifying if:

(1) The remuneration, hours, or other conditions of such employment are substantially less favorable than the other work which he or she was performing at the time of the quit; and

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- (2) The employment, if offered as new work, would be considered not suitable under the provisions of divisions (E) and (F) of section 4141.29 of the Revised Code.
- (E) If an individual is disqualified from receiving benefits pursuant to paragraph (C) of this rule or left employment under the provisions of paragraph (D) of this rule, then benefits which may become payable to such claimant, which are chargeable to the account of the employer from whom he was separated under such conditions, shall be charged to the mutualized account provided in section 4141.25 of the Revised Code, provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer except as provided in section 4141.24(D)(2) of the Revised Code. In the case of a reimbursing employer, the director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered under division (B) of section 4141.35 of the Revised Code.
- (F) Any benefits which would otherwise be chargeable to the account of the employer from whom an individual quit employment under conditions described in paragraph (D) of this rule, shall instead be charged to the mutualized account as provided in division (H) of section 4141.29 of the Revised Code.
- (G) The application for determination of benefit rights shall not be considered valid unless the individual has performed services in covered employment in six weeks since the beginning of the previous benefit year for which remuneration was paid or is payable, and with respect to such services earned or was paid three times the average weekly wage determined for the previous benefit year. Compensation paid to an individual which is not for services performed, including but not limited to back pay, shall not be used to meet this requirement.

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4141-27-04      **Filing claims for benefits.**

- (A) Claims for benefits shall be filed weekly or biweekly, in a manner prescribed by the director. An individual filing a claim for benefits shall furnish any information necessary to determine the individual's eligibility for benefits. When an individual has been permitted to register and file a claim by mail, in accordance with rule 4141-29-01 of the Administrative Code, such claim shall be deemed to have been filed - ~~when the individual has mailed the prescribed form and such form has been received by the department within the time limits set forth in rule 4141-27-05 of the Administrative Code. Such form shall be deemed to have been filed~~ on the date on which it is postmarked in accordance with rule ~~4141-11-04~~ 4141-19-01 of the Administrative Code.
- ~~(B) If for reasons constituting good cause an individual does not file a claim for benefits on a specified reporting day, the department may specify a day other than that originally established. An individual may file claims for benefits with any department office in this state or in another state as provided in Chapter 4141-31 of the Administrative Code.~~

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4141-27-05      **Time limitation for filing claim for benefits within the benefit year.**

- (A) When a benefit year has been established and a claim for benefits filed for a week of total or partial unemployment, such claim shall not be valid if filed later than the end of the ~~second~~third calendar week immediately following such week.
- (B) In exceptional cases, when it is shown to the satisfaction of the director that an individual has been deterred by circumstances beyond the individual's control from filing a claim as prescribed in this rule, the director may extend the time limitations to file.

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4141-27-09      **Requests for redetermination and appeal.**

- (A) Any interested party notified of a determination of an application for determination of benefit rights or a claim for benefits may, within twenty-one calendar days after the date ~~of mailing of~~ the notice was sent, appeal the determination in the manner prescribed by section ~~4141.28~~4141.281 of the Revised Code. An appeal of a determination shall be deemed to be a request for redetermination during the period the director has jurisdiction.
- (B) Upon receipt of a request for redetermination/appeal, the director shall issue a redetermination or transfer the request to the commission.
- (1) If the director issues a redetermination, it shall void the prior determination. Such redetermination is appealable to the same extent as a determination.
- (2) If the director transfers the request for redetermination/appeal to the commission, the commission shall acquire jurisdiction over the appeal as of the date of transfer.
- (3) If the director receives a request for redetermination/appeal under this division but fails to issue a redetermination within twenty-one days, the commission shall acquire jurisdiction with respect to the appeal as of the day after the twenty-one day period.
- ~~(C) Upon receipt of an appeal, the commission shall notify the interested parties that the appeal has been transferred to it for disposition.~~
- ~~(D)~~(C) For the purposes of division (C)(3) of section 4141.281 of the Revised Code, the "director's file" required to be included in the record on appeal shall include the following:
- (1) The determination or redetermination under appeal;
- ~~(2) All information in the file pertaining to, or upon which, the determination or redetermination was based;~~
- ~~(3)~~(2) Any information, received by the director ~~subsequent to the determination or redetermination and~~ prior to the transfer of the request for redetermination/appeal to the commission, that relates to the facts or circumstances upon which the determination or redetermination was based.

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4141-27-10      **Timeliness of appeals.**

- (A) An appeal filed pursuant to section ~~4141.28~~[4141.281](#) of the Revised Code is timely filed if filed within twenty-one calendar days after the director's notice of determination or redetermination was ~~mailed~~[sent](#) to the interested party's last known post office address
  
- (B) In determining whether an appeal filed pursuant to section ~~4141.28~~[4141.281](#) of the Revised Code was filed timely, the director and the unemployment compensation review commission shall take administrative notice of and accept the "date mailed" appearing on the notice of determination or redetermination as sufficient evidence to establish the date on which the determination or redetermination was ~~mailed~~[sent](#).

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4141-29-01      **Registration while claiming benefits.**

(A) No claim for benefits for a week of unemployment shall be valid unless the individual is registered as designated by the director. The director shall prescribe the manner and frequency of registration.

(1) An individual is deemed to be registered upon filing an application for benefit rights, making a weekly claim for benefits or reopening an existing claim following a period of employment or non-reporting.

(2) Registration continues for a period of three weeks from the week of registration.

(3) The director may, for good cause, extend the specified period of registration.

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4141-29-03      **Sports and athletic employment.**

(A) For purposes of division ~~(E)~~(D) of section 4141.33 of the Revised Code:

- (1) "Participating in sports or athletic events" refers only to the services performed by athletes as contestants in sports or athletic events and not to the services performed by managers, coaches, trainers, referees, umpires, scorers, groundskeepers or other individuals who are not contestants.
- (2) An individual shall be deemed to perform "substantially all" of his or her services participating in sports or athletic events if such participation accounts for seventy-five per cent or more of total services performed during the base period.
- (3) A "sports season" shall be deemed to begin on the date that scheduled training begins and to end on the date on which all related sports activity ceases.

(B) The period between two successive sports seasons or similar periods shall begin with the Sunday immediately following the date on which the sports season ends and shall continue through the Saturday following the date on which the next sports season begins.

(C) A claim for benefits shall be disallowed when the individual has reasonable assurance of employment with either the same employer or a different athletic employer for the next sports season.

(D) When an athlete performs services in nonathletic employment in addition to athletic employment, and the athlete has reasonable assurance of employment for the next sports season, claims for benefits shall be disallowed between sports seasons even if the nonathletic employment was sufficient to establish a valid application for determination of benefit rights.

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4141-31-01 **Interstate claims.**

- (A) The following rules shall govern the Ohio department of job and family services in its administrative cooperation with other states which have adopted a similar regulation for the payment of benefits to interstate claimants.
- (B) As used in rules 4141-31-01 to 4141-31-10 of the Administrative Code unless the context clearly requires otherwise:
- (1) "Interstate Benefit Payment Plan" means the plan approved by the ~~Interstate Conference of Employment Security~~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.
  - (2) "Interstate claimant" means an individual who files an interstate claim for benefits under the unemployment insurance law of a liable state from another state through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any individual who customarily commutes across state lines from a residence in one state to work in a liable state unless the Ohio department of job and family services finds that this exclusion would create undue hardship on such claimants in specified areas.
  - (3) "State" includes the District of Columbia, Puerto Rico, and the Virgin Islands.
  - (4) "Agent state" means any state from or through which an individual files an interstate claim for benefits against another state.
  - (5) "Liable state" means any state against which an individual files, from or through another state, an interstate claim for benefits.
  - (6) "Benefits" means the compensation payable to an individual, with respect to the individual's unemployment, under the unemployment insurance law of any state.
  - (7) "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.
- (C) Interstate benefit rules 4141-31-01 to 4141-31-10 of the Administrative Code shall apply to claims taken in and for Canada.

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4141-43-03      Disclosure of wage information to a consumer reporting agency.

(A) Agreements for the disclosure of wage information to a consumer reporting agency must include the following requirements, at a minimum:

(1) A requirement that the consumer reporting agency and any entity to which wage information is disclosed shall assure that a written statement of informed consent is signed by the individual to whom the information pertains prior to requesting wage information about the individual. The statement of informed consent must contain the following:

(a) a specific statement indicating that the individual's wage information will be released;

(b) a statement that the release is only for that particular transaction;

(c) a clear statement informing the individual that the consumer reporting agency may use information from wage information files maintained by the Ohio Department of Job and Family Services; and

(d) a statement indicating who may receive the information released.

(2) A requirement that the consumer reporting agency to which wage information is provided, and any other entity to which wage information is disclosed by the consumer reporting agency, shall use the wage information only for the specific transaction authorized by the individual's statement of informed consent.

(3) A requirement that the consumer reporting agency and any other entity to which wage information is provided by the consumer reporting agency shall safeguard the confidentiality of wage information from illegal or unauthorized disclosure by compliance with the following measures:

(a) the information shall be stored in a place physically secure from access by unauthorized persons;

(b) information shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal or other means;

(c) precautions shall be taken to ensure that only authorized personnel are given access to on-line files;

(d) the consumer reporting agency and any other entity to which wage information is provided shall instruct all personnel with access to the information regarding the confidential nature of the information, and the

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sanctions specified in Chapter 4141. of the Revised Code for the unauthorized disclosure of information and any other relevant federal and state statutes and regulations;

(e) the consumer reporting agency shall provide a statement attesting to the policies and procedures used to protect the confidentiality of the wage information;

(f) the consumer reporting agency and any other entity to which wage information is provided shall permit the Ohio Department of Job and Family Services to make onsite inspections to ensure that the requirements of the agreement and Chapter 4141. of the Revised Code are being met.

(4) A requirement that the consumer reporting agency or other entity to which wage information is provided permit a periodic audit of sample transactions accessing wage information to assure that the agency or other entity had a written statement of informed consent meeting the requirements of Paragraph (A)(1) of this rule for each transaction.

(5) A requirement that the consumer reporting agency will pay all costs associated with the disclosure of wage information under the terms of the agreement.

(6) A requirement that the consumer reporting agency to which wage information is provided will provide a list of the names, addresses and telephone numbers of all entities to which wage information may be disclosed by the consumer reporting agency.

(B) For the purposes of this rule, "wage information" means the name, social security number, quarterly wages paid, weeks worked by the individual, and the name and address of the individual's employer reporting wages under section 4141.20 of the Revised Code.

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4141-48-01

Definations for Alternative Trade Adjustme nt Assistance for older workers .

(A) For the purposes of the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program established by the Trade Adjustment Assistance Reform Act of 2002, an individual will be considered to be "employed full-time" when the individual is employed for at least thirty-five hours per week or is, by custom or as specified by contract, in full-time employment.