

# Model State Legislation Implementing the UI Modernization Provisions of the Recovery Act

By National Employment Law Project, February 2010

## Alternative Base Period

### Model Language:

Section 1. Except as provided in Section 2, "base period" means the first four of the last five completed calendar quarters immediately preceding the individual's benefit year.

Section 2. (a) "Alternate base period" means for benefit years effective on or after \_\_\_\_\_, for any individual who does not have sufficient wages in the base period as defined in section 1 to qualify for benefits, the individual's base period shall be the four most recently completed calendar quarters prior to the individual's benefit year if such period qualifies the individual for benefits, provided such quarters were not previously used to establish a prior valid benefit year.

(b) If the wage information for an individual's most recently completed calendar quarter is not unavailable to the department from regular quarterly reports of systematically accessible wage information, the department shall promptly contact the individual's employer to obtain such wage information. The commissioner shall establish such rules as are necessary for the implementation of this subsection.

(c) Wages that fall within the base period of claims established under this section shall not be available for reuse in qualifying for any subsequent benefit years.

NOTE: Generally, state UI laws should already contain a provision that defines the regular base period along the lines of Section 1 above.

## Compelling Family Circumstances

Note: To qualify for an incentive payment using the "compelling family reason" option, the state law must provide that an individual will not be disqualified from separating for work under any and all of the following circumstances:

- Domestic violence (verified by reasonable and confidential documentation as the state law may require) which causes the individual reasonably to believe that the individual's continued employment would jeopardize the safety of the individual's immediate family (as defined by the U.S. Department of Labor).
- The illness or disability of a member of the individual's immediate family (as those terms are defined by the U.S. Department of Labor).
- The need for the individual to accompany his/ her spouse: (1) to a place from where it is impractical for such individual to commute; and (2) due to a change in location of the spouse's employment.

(Unemployment Insurance Program Letter 14-09)

## Model Language:

### A. Domestic Violence

1. *An individual shall not be disqualified from unemployment benefits for separating from employment due to domestic violence and/or sexual assault that is verified by reasonable documentation and that causes the individual to reasonably believe that the individual's continuing employment would jeopardize the safety of the individual or an immediate family member.*
2. *Reasonable documentation of domestic violence and/or sexual assault includes but is not limited to the following:*
  - (a) *a court order for protection or other documentation of equitable relief issued by a court;*
  - (b) *a police record documenting domestic violence;*
  - (c) *medical documentation of domestic violence and/or sexual assault;*
  - (d) *documentation that the perpetrator of the domestic violence and/or sexual assault has been convicted of a crime involving domestic violence;*
  - (e) *a written statement that the individual or the individual's immediate family member is a victim of domestic violence and/or sexual assault, provided by a social worker, member of the clergy, shelter worker, attorney at law, other professional who has assisted the applicant in dealing with the domestic violence, or*
  - (f) *a reliable statement that the individual or the individual's immediate family member is a victim of domestic violence and/or sexual assault from a person with knowledge of the domestic violence and/or sexual assault;*
3. *"Immediate family member" means the individual's spouse, parent or child under the age of eighteen.\**

### B. Care for Family Member

1. *An individual shall not be disqualified from unemployment benefits due to the need to care for an immediate family member with a verified illness or disability that necessitates the care of the ill or disabled person for a period of time longer than the employer is willing to grant leave, paid or otherwise.*
2. *"Immediate family member" means the individual's spouse, parent or child under the age of eighteen.\**

**\*Note:** While the definition of "immediate family member" (in both the domestic violence and family care provisions above) must include – at a minimum – spouse, parent or child under the age of 18, states may also include other family members including but not limited to adult child, brother, sister, parent-in-law, grandchild, grandparent, step-parent, step-child, step-brother and step-sister.

### C. Relocating for Spouse's Employment

*An individual shall not be disqualified from regular unemployment benefits for separating from employment due to the need to relocate in order to accompany the individual's spouse: (1) to a place from which it is impractical for such individual to commute, and (b) because of a change in the location of the spouse's employment.*

**Note:** States may explicitly non-charge employers for benefits awarded under any or all of the three compelling family circumstances provisions.

## Part-time Availability

Under the part-time availability option, state law must provide that an individual will not be denied unemployment benefits under any provision relating to availability for work, active search for work, or refusal to accept work, solely because the individual is seeking only part-time work as defined by the U.S. Department of Labor.

- A state law *may* deny benefits if a majority of weeks of work in the individual's base period do *not* include part-time work, but this is not required.
- A state law may *not* require that more than a majority of weeks in the base period have been part-time
- A state law may determine that an individual who worked full-time during his/her base period is eligible for benefits even if the individual limits his/her availability to seeking part-time work.

(Unemployment Insurance Program Letter 14-09)

### Model Language:

**Option 1:** *No individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or is willing to accept only part-time work, instead of full-time work, if the part time work is for at least twenty hours per week.*

**Option 2:** *No individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or is willing to accept only part-time work, instead of full time work, if the part-time work is for at least the number of hours that the individual customarily worked in part-time work during that individual's base period.*

**Option 3:** *No individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or is willing to accept only part time work, instead of full time work, if the part-time work is for at least the number of hours that the individual worked in part-time work at the time of his most recent separation from employment.*

## Dependents' Allowance

### Model Language:

*Each individual who is eligible to receive benefits with respect to any week shall be paid with respect to such week a dependents' allowance for each dependent (as defined by state law) in an amount equal to fifteen dollars per dependent, but in no event shall the aggregate dependents' allowance in a given week exceed the higher of fifty dollars or fifty percent of the individual's weekly benefit amount, whichever is less.*

**Option:** State law may provide for a reasonable reduction in dependents' allowance if the individual's weekly benefit amount is subject to reduction because of earnings in a given week. Applying the same pro rata reduction of dependent's allowance as was applied to weekly benefit amount is considered reasonable. However, no reduction is required.

<p><b>Note:</b> (1) Definition of "dependent" is subject to state law. (2) States may explicitly non- charge dependents' allowance benefits</p>
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## Extended Training Benefits

### Model Language

*(a) Weekly benefits shall be payable to any individual who is unemployed, has exhausted all rights to regular benefits and is enrolled and is making satisfactory progress in a state-approved training program or in a job training program authorized under the Workforce Investment Act of 1998*

*(b) Any training program under Subsection (a) shall prepare for entry in a high-demand occupation individuals who have been either (1) involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, or (2) separated from a declining occupation,*

*(c) The weekly amount of benefits payable under section (a) shall be equal to the individual's average weekly benefit amount (including dependents' allowance) for his most recent benefit year, less any income deductible under state law.*

*(d) The total amount of benefits payable under subsection (a) shall be equal to 26 times the individual's average weekly benefit amount (including dependents' allowances) for the individual's most recent benefit year.*

<p><b>(1) The job training requirements in subsection (b) are the minimum requirements for UIMA certification. A state can pay extended training benefits to a broader class of individuals than the categories specified in subsection (b).</b> <b>(2) States may explicitly non-charge extended training benefits.</b></p>
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