

CHAPTER 3310
DEPARTMENT OF ECONOMIC SECURITY
UNEMPLOYMENT COMPENSATION PROCEDURE

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3310.0200 UNEMPLOYMENT COMPENSATION FUND RECEIPTS AND DISBURSEMENTS.

Subpart 1. **Payments.** All moneys, checks, drafts, and United States postal money orders received by the Department of Economic Security in payment of taxes, interest, or penalties shall be delivered daily to the state treasurer who shall promptly deposit the same in a bank designated by the commissioner to the credit of the Minnesota unemployment compensation fund, clearing account. At least once each week the state treasurer shall issue an

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official transfer, transferring all of such funds which have had six days or more in which to clear the banks or other institutions upon which they are drawn, to the credit of the special disbursing account of the unemployment trust fund, c/o Commissioner of Accounts, Treasury Department, Washington, D.C., provided there is at least \$25,000 in such clearing account to be transferred.

Subp. 2. Requisition of money from the unemployment trust fund. The commissioner or an authorized representative shall periodically and from time to time requisition moneys from the unemployment trust fund deposited with the secretary of the treasury of the United States to the credit of the state of Minnesota in such amounts as the commissioner deems necessary for the payment of benefits under the Minnesota employment security law for a period of not to exceed one calendar quarter and in no case to exceed the amount standing to the account of the state of Minnesota.

Moneys so withdrawn shall be requisitioned to be paid by United States Treasury Department check or checks made payable to the treasurer of the state of Minnesota as custodian of the Minnesota unemployment compensation fund. The state treasurer upon receipt thereof shall immediately deposit the same to the credit of the Minnesota unemployment compensation fund, benefit account, in a bank designated by the commissioner as depository for the Minnesota unemployment compensation fund.

In cases of emergency the commissioner may arrange with the United States Treasury Department to transfer the required amount of money by wire to the credit of the state of Minnesota unemployment compensation fund, benefit account.

Subp. 3. Advance of money for payment of unemployment compensation to veterans. All moneys, checks, drafts, and United States postal money orders received for the Minnesota unemployment compensation fund from the treasurer of the United States as an advance of money for the payment of unemployment compensation to veterans under title IV of the Veterans' Readjustment Assistance Act of 1952, as amended, and to federal employees under United States Code, title 5, chapter 85, shall be promptly deposited in a bank designated by the commissioner to the credit of the Minnesota unemployment compensation fund, benefit account.

Subp. 4. Moneys received from other states to reimburse Minnesota. All moneys, checks, drafts, and United States postal money orders received from an unemployment compensation agency of another state to reimburse the Minnesota unemployment compensation fund for moneys disbursed by the Minnesota Department of Economic Security for payment of benefits to claimants pursuant to a reciprocal interstate agreement existing between the state of Minnesota, Department of Economic Security, and the unemployment compensation agencies of various other states, shall be promptly deposited in a bank designated by the commissioner to the credit of the Minnesota unemployment compensation fund, benefit account.

Subp. 5. Issuance of checks. The state treasurer, upon receipt of certification and abstract of disbursement signed by the commissioner or a duly authorized representative shall issue state treasurer's checks prepared by the Department of Economic Security and countersigned by the commissioner for the following purposes:

A. Payment of refunds to persons who have paid taxes, interest, and penalties to the Department of Economic Security in excess of the amount legally required pursuant to an order directing such payment signed by the commissioner. Such checks shall be drawn on the unemployment compensation fund, clearing account.

B. Payment of moneys to various state unemployment compensation agencies in reimbursement of this state's proportionate share of disbursements made by such agencies for payment of benefits pursuant to a reciprocal interstate arrangement or agreement for that purpose existing between the state of Minnesota, Department of Economic Security, and the proper authorities of such other state agency which is a party to such agreement. Such check shall be drawn on the unemployment compensation fund, benefit account.

C. For transfer of moneys from the unemployment compensation fund, clearing account, to the Minnesota Employment Security contingent fund account covering interest and penalties accrued under the Minnesota employment security law and collected and deposited into the unemployment compensation fund, clearing account, subsequent to April

17, 1945, pursuant to an order signed by the commissioner directing the transfer of such funds.

D. For the transfer, on or after April 1, 1953, from the clearing account of the unemployment compensation fund to the Minnesota employment security administration fund, of court and statutory costs paid by an employer in connection with the institution or prosecution of a suit by the Department of Economic Security to enforce the payment of taxes by such employer and which costs have been included in the remittance received by the department covering payment of taxes due and owing by such employer and deposited in the clearing account of the unemployment compensation fund.

E. Payment of benefits to unemployed individuals under the Minnesota employment security law and payment of unemployment compensation to veterans under title IV of the Veterans' Readjustment Assistance Act of 1952, as amended, and to federal employees under United States Code, title 5, chapter 85, shall be made by the Minnesota Department of Economic Security warrants or checks drawn against the Minnesota unemployment compensation fund, benefit account. All such warrants or checks shall carry the facsimile signature of the state treasurer and of the commissioner of the Department of Economic Security. All such warrants or checks written and issued in local employment offices of said department shall also be countersigned by a duly authorized cashier of the Department of Economic Security at such local employment offices. The commissioner or a duly authorized representative shall furnish to the state treasurer a post abstract of all warrants or checks countersigned each day by such duly appointed and authorized cashiers.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1; L 1997 c 66 s 80*

3310.0300 CONFIDENTIAL INFORMATION IN FILES AND RECORDS OF DEPARTMENT.

Subpart 1. Information held confidential. Information obtained from any employing unit or individual pursuant to the administration of the Minnesota employment security law or from any written return, report, statement, or determination with respect to the rights to benefits of any individual or any portion of any such document shall be held confidential and shall not be disclosed or open to public inspection in any manner revealing any such information or the individual's or employing unit's identity except as follows:

A. Information from the records of the Department of Economic Security shall be furnished to any claimant for benefits or the claimant's representative upon request for such information to the extent necessary for the proper presentation of such claimant's claim in any proceeding under the Minnesota employment security law.

B. Information from the records of the Department of Economic Security may in the discretion of the commissioner be furnished to the following:

(1) any agency of any other state or of the United States charged with the administration of an employment security law or the maintenance of a system of public employment offices;

(2) the Internal Revenue Service of the United States, Department of the Treasury;

(3) any agency of this state or the United States charged with the administration of public works or assistance through public employment.

Any such agency or department seeking such information shall file with the Department of Economic Security a written request setting forth therein the nature of the information desired and the purpose for which such information is sought.

C. Information from the records of the Department of Economic Security may be disclosed in the form of statistical statements or reports which do not reveal the individual's or employing unit's identity.

Subp. 2. Confidentiality of form OA-702. Notwithstanding any other provisions of the rules of the Department of Economic Security:

A. All copies of form OA-702, or any part thereof, received from the Social Security Administration shall be kept in a confidential file and shall be returned to the Social Security Administration, if and when this department finds it has no further use for them.

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B. The information contained on form OA-702 shall be used only for the administration of the Minnesota employment security law and no information contained therein shall be divulged to any other individual or agency except that such information may be divulged to an authorized agent or agency of the Social Security Administration.

C. All requests for copies of form OA-702, or any of the information contained thereon, shall be denied, and the person from whom the request is received shall be referred to the regional office of the Social Security Administration.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.0400 [Repealed, 13 SR 1057]

3310.0500 [Repealed, 13 SR 1057]

3310.0600 SETTLEMENT AGREEMENTS AND CANCELLATION OF CLAIMS.

Subpart 1. **Application for compromise settlement.** Any person who is indebted to the state of Minnesota, Department of Economic Security, because of failure to pay taxes with respect to any given period required under the Minnesota employment security law may file with the Minnesota Department of Economic Security a verified application on a form prescribed by the commissioner requesting a compromise settlement of such indebtedness, which application shall set forth in detail:

A. the full name and address of the applicant; if a copartnership, the name and address of each such copartner; and if a corporation, the name of such corporation and the name and address of each statutory officer; and the employer's account number, if any;

B. the calendar quarters with respect to which the delinquency exists, the amount of taxes owing for each such quarter, the interest accrued thereon and other penalties, if any, and the total amount of indebtedness for taxes, interest, and penalties;

C. the reason for failure to pay such taxes, interest, and penalties;

D. a financial statement of the applicant;

E. information indicating whether or not the applicant is still engaged in business;

F. the reason for requesting a compromise of such indebtedness; and

G. the amount of taxes the applicant is able to pay and the time such payment will be made.

Subp. 2. **Compromise agreement.** Upon receipt of such application, it shall be considered by the commissioner or the representative or representatives designated by the commissioner to consider such matters and pursuant thereto an agreement may be entered into between the applicant and the Department of Economic Security compromising such indebtedness in accordance with the facts in each case as follows:

A. In any case wherein the indebtedness is past due and owing:

(1) If the applicant is no longer engaged in business or is insolvent or has established permanent residence in another state or where it is shown to the satisfaction of the commissioner or the commissioner's representatives that the question of liability was sufficiently doubtful to justify an honest belief on the part of the applicant that the applicant was not liable for such taxes, the indebtedness may be compromised by cancellation of a portion or all of the interest, penalties, and costs, if any.

(2) If the debtor at the time the indebtedness accrued was a copartnership and is no longer engaged in business, the indebtedness may be compromised and the claim released as against any member of such copartnership who was paid a just share of such indebtedness.

B. In any case wherein the indebtedness is more than two years past due:

If it is shown to the satisfaction of the commissioner or the commissioner's representatives that the question of liability was doubtful and controversial justifying an honest belief on the part of the applicant that the applicant was not liable for such taxes, the indebtedness may be compromised by cancellation of a portion or all of the taxes more than two years past due together with all of the interest and penalties accrued thereon.

C. In any case where the indebtedness is more than four years past due:

(1) If the applicant is still engaged in business, the indebtedness may be compromised by cancellation of a portion or all of the interest and penalties owing, depending upon the facts in each case.

(2) If the applicant is no longer engaged in business, the indebtedness may be compromised by cancellation of all accrued interest and penalties, and cancellation of taxes in accordance with what the facts in each case may justify.

(3) If the applicant is insolvent or has established permanent residence in another state and is no longer engaged in business, the indebtedness may be compromised according to the facts in each case by the cancellation of all accrued interest, penalties, and such portion of the taxes as the commissioner deems proper.

Subp. 3. **Inability to collect.** In any case wherein the debtor is a corporation which has been dissolved or an individual who is deceased and the department's claim has not been reduced to judgment and there are no assets known to the commissioner or the commissioner's representative out of which collection of a substantial portion of the indebtedness can be enforced, taxes, interest, and penalties may be canceled and written off the books of account of the Department of Economic Security; however, in any such case where the department's claim has been reduced to judgment, the matter may be compromised upon payment of such an amount as the commissioner deems advisable and proper.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1; L 1997 c 66 s 80*

3310.0700 SEPARATION NOTICE REQUIRED FROM EMPLOYERS.

Any employer upon separation of an employee for any reason other than lack of work or upon a claimant's refusal of an offer of reemployment shall within three days file with the Minnesota Department of Economic Security a separation notice on a form furnished by the department. Such notice shall be mailed to the Minnesota Department of Economic Security and a copy thereof handed to the worker or mailed to the last known address of the worker if personal delivery is impossible. Such notice shall set forth:

- A. the employer's name, address, and employer account number as registered with the department;
- B. the worker's name and social security account number;
- C. the date employment began and the date of separation or refusal of reemployment;
- D. a brief statement of the reason for separation or the offer and refusal of reemployment; and
- E. such other information as required by such form.

In cases of unemployment due to a strike, lockout, or other labor dispute, the employer shall, within 48 hours, file with the Department of Economic Security at its state office a notice setting forth the existence of such dispute and the approximate number of employees affected.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; L 1994 c 483 s 1*

PAYMENT OF BENEFITS FOR PARTIAL UNEMPLOYMENT

3310.0800 DEFINITIONS.

Subpart 1. **Partially unemployed individual.** A "partially unemployed individual" is one who, during a particular week earned wages less than the individual's weekly benefit amount, was employed by a regular employer, and worked less than normal customary full-time hours for such employer because of lack of work:

Subp. 2. **Week of partial unemployment.** With respect to a partially unemployed individual whose wages are paid on a weekly basis, a "week of partial unemployment" shall consist of a pay-period week; with respect to a partially unemployed individual whose wages are not paid on a weekly basis, a "week of partial unemployment" shall consist of a calendar week, provided that the commissioner may, upon the commissioner's own initiative or upon

application, prescribe as to any individual or group of individuals such other period of seven consecutive days as the commissioner may find appropriate under the circumstances.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.0900 EMPLOYER RESPONSIBILITY WITH RESPECT TO NOTICES OF POTENTIAL ELIGIBILITY FOR PARTIAL BENEFITS.

Subpart 1. **Notice required.** Any employer, who regularly employs an individual, shall, after the termination of any week, and not later than the regular pay day for such week, give each such individual a copy of notice of potential eligibility for benefits for partial unemployment (MES-95) or such other forms containing substantially the same information as may be approved by the commissioner, except as otherwise provided in subpart 2, under either of the following circumstances:

A. if, because of lack of work in such week, the hours of work of such individual have been reduced by such employer to less than the individual's normal customary full-time hours and less than four full days' work, or the time or dollar earnings equivalent thereof; or

B. if, because of lack of work in such week, such individual's earned remuneration is less than the minimum weekly benefit amount provided for by law.

Provided, that no such notice is required from any employer to any employee for any week in which such employee's earned remuneration is equal to or in excess of the maximum weekly benefit amount provided for by law.

Subp. 2. **Exception to employer notice to worker.** The Department of Economic Security, upon the filing of a first claim for partial benefits for a benefit year by an individual, shall promptly notify such individual of potential rights to partial benefits and shall notify the employer of such individual's weekly benefit amount and benefit year ending date. Upon receipt of such notice, such employer shall record such weekly benefit amount and benefit year ending date upon the payroll records. No notice of potential eligibility for partial benefits is required to be given by an employer in any benefit year to any worker of whose weekly benefit amount and current benefit year ending date the employer has received notice from the Department of Economic Security.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.1000 EMPLOYER TO FURNISH EVIDENCE OF PARTIAL UNEMPLOYMENT.

After any employer has been notified of the weekly benefit amount and current benefit year ending date of any worker employed, such employer, until otherwise notified, shall, after the termination of each week and not later than the regular pay day for such week (as described in part 3310.0800, subpart 2) which begins within such benefit year and for which week such worker's wages are less than such weekly benefit amount because of the failure of such employer to supply such worker with the worker's normal customary full-time hours of work in such week, furnish such worker with a low-earnings statement (MES-96) as prescribed by the Department of Economic Security signed by the employer, setting forth the information required therein, including the worker's name and social security account number, the beginning and ending dates of such week, the wages earned therein, and a statement that such worker worked less than the worker's normal customary hours during such week because of the failure of such employer to supply such work.

Any employer may substitute for the low-earnings statement written evidence concerning partial unemployment in the form of a pay envelope, pay check stub or copy thereof or other suitable medium provided that the form containing such evidence has been approved by the commissioner. Approval of such substitute form will be granted only if it contains a provision for certification signed by the employer or other positive identification of the authority supplying the evidence and if it contains all items necessary for establishing the identity of the employer and claimant, the period covered, and the total amount of earnings in each week of such pay period, and such other items as are necessary for ascertaining that the

week of partial unemployment was one of less than full-time, and that the individual was not unavailable when work was offered.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.1100 EMPLOYERS TO MAKE LOW EARNINGS REPORTS UPON REQUEST.

Upon request by the commissioner, employers shall file a report for the individual specified in the request, on a form prescribed by the commissioner, showing with respect to each week covered by the request the individual's total amount of earnings for such week, whether such individual worked less than the individual's normal customary full-time hours because of the failure of such employer to furnish such work, and whether the individual earned less than the individual's weekly benefit amount. Such report shall be mailed to the address specified in the request within two business days after its receipt by the employer.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.1200 REGISTRATION AND FILING OF CLAIMS FOR PARTIAL UNEMPLOYMENT.

The provisions of ES 19 with respect to registration for work and reporting simultaneously with the filing of a claim for benefits are, in accordance with the provisions of Minnesota Statutes, section 268.08, subdivision 1, waived in connection with the filing of a claim for benefits for partial unemployment.

An initial claim or continued claim for benefits for partial unemployment may be filed by any individual in person at any local employment office in the state of Minnesota or with any authorized itinerant agent of the Department of Economic Security on a form supplied for that purpose by the department and such a claim when so filed shall, except as provided in the next paragraph, constitute such individual's claim for benefits or for waiting period credit with respect to each week of partial unemployment specified in the claim; provided that such claim shall not be allowed if filed more than 35 days after the individual has been furnished by the employer or the department with information as to earnings in any such week as provided in part 3310.0900, 3310.1000, or 3310.1100, except as provided in part 3310.1300.

No such claim shall be allowed with respect to any week specified therein unless at the time of filing the individual claiming benefits shall present evidence of wages consisting of notices of potential eligibility for benefits, or low-earnings statements, executed by the employer, if the individual has received either of such notices with respect to any week for which benefits are claimed; provided, however, that the loss of such evidence shall not result in any forfeiture of benefit rights.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

NOTE: Rule ES 19 has been repealed.

3310.1300 EXTENDED PERIOD FOR REGISTRATION AND THE FILING OF CLAIMS FOR GOOD CAUSE.

Notwithstanding the provisions of part 3310.1200, if the commissioner finds that the failure of any individual to register and file a claim for partial reemployment insurance benefits was due to failure on the part of the employer to comply with any of the provisions of part 3310.0900, 3310.1000, or 3310.1100 or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the department to discharge its responsibilities promptly in connection with such partial unemployment, the commissioner shall extend the period during which such claim may be filed to a date which shall not be less than one week after the individual has received appropriate notice of potential rights to benefits and earnings during the period of such partial unemployment; provided, however, that such period shall not be extended to any date more than 13 weeks after the end of the benefit

year during which the week of partial unemployment for which the benefits might otherwise be claimed occurred.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279; L 1997 c 66 s 80*

3310.1400 EMPLOYERS TO KEEP RECORDS OF PARTIAL UNEMPLOYMENT.

In addition to the requirements set forth in ES 8 each employer shall keep payroll records in such form that it would be possible from an inspection thereof to determine with respect to each worker employed who may be eligible for partial benefits:

A. wages earned, by weeks, as described in part 3310.0800, subpart 2;

B. whether any week was in fact a week of less than the worker's customary full-time hours;

C. time lost, if any, by each such worker, due to unavailability for work.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

NOTE: Rule ES 8 has been repealed.

PAYMENT OF BENEFITS TO INTERSTATE CLAIMANTS

3310.1500 SCOPE.

Parts 3310.1500 to 3310.2200 shall govern the Minnesota Department of Economic Security in its administrative cooperation with other states adopting a similar regulation for the payment of benefits to interstate claimants.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; L 1994 c 483 s 1*

3310.1600 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 3310.1600 to 3310.2200 have the meanings given them in this part, unless the context clearly requires otherwise.

Subp. 2. **Agent state.** "Agent state" means any state in which an individual files a claim for benefits from another state.

Subp. 3. **Benefits.** "Benefits" means the compensation payable to an individual, with respect to unemployment, under the unemployment compensation law of any state.

Subp. 4. **Interstate benefit payment plan.** "Interstate benefit payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

Subp. 5. **Interstate claimant.** "Interstate claimant" means an individual who claims benefits under the unemployment compensation law of one or more liable states through the facilities of an agent state. 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 Minnesota Department of Economic Security finds that this exclusion would create undue hardship on such claimants in specified areas.

Subp. 6. **Liable state.** "Liable state" means any state against which an individual files, through another state, a claim for benefits.

Subp. 7. **State.** "State" includes the District of Columbia and Puerto Rico.

Subp. 8. **Week of unemployment.** "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, except that no week of less than the individual's customary full-time work and reduced earnings for an individual attached to the regular employer shall be considered a week of unemployment for purposes of this rule.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.1700 REGISTRATION FOR WORK.

Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by the law, regulations, and procedures of the

agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

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

Statutory Authority: *MS s 268.021*

3310.1800 BENEFIT RIGHTS OF INTERSTATE CLAIMANTS.

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

For the purpose of parts 3310.1500 to 3310.2200, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.

Benefit credits in any state shall be deemed to be unavailable for partial unemployment benefit purposes if that state does not provide for the interstate payment of partial reemployment insurance benefits.

The benefit rights of interstate claimants established by parts 3310.1500 to 3310.2200 shall apply only with respect to new claims (notices of unemployment) filed on or after July 5, 1953.

Statutory Authority: *MS s 268.021*

History: *L 1997 c 66 s 80*

3310.1900 CLAIMS FOR BENEFITS.

Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. 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.

Claims shall be filed in accordance with agent-state regulations for intrastate claims in local employment offices, or at an itinerant point, or by mail. With respect to claims for weeks of unemployment in which an individual was not working for a regular employer the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period, late. If a claimant files more than one reporting period late, an initial claim must be used to begin a claim series and no continued claim for a past period shall be accepted.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.2000 DETERMINATIONS OF CLAIMS.

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.

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

Statutory Authority: *MS s 268.021*

3310.2100 APPELLATE PROCEDURE.

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.

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.

Statutory Authority: *MS s 268.021*

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UNEMPLOYMENT COMPENSATION PROCEDURE 3310.2500

3310.2200 EXTENSION OF INTERSTATE BENEFIT PAYMENTS TO INCLUDE CLAIMS TAKEN IN AND FOR CANADA.

Parts 3310.1500 to 3310.2200 shall apply in all its provisions to claims taken in and for Canada.

Statutory Authority: *MS s 268.021*

3310.2300 COMBINING OF WAGE CREDITS PURSUANT TO INTERSTATE RECIPROCAL ARRANGEMENTS.

Parts 3310.2300 to 3310.2600 shall govern the Minnesota Department of Economic Security in its administrative cooperation with other states adopting a similar rule for the combining of wage credits pursuant to reciprocal benefit arrangements as provided by Minnesota Statutes 1953, section 268.13, subdivisions 1 and 2.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; L 1994 c 483 s 1*

3310.2400 BASIC INTERSTATE PLAN FOR COMBINING WAGE CREDITS.

Subpart 1. Wage credits in two or more states. Whenever a claimant has wage credits in two or more states which are parties to an interstate reciprocal arrangement, upon the basis of which arrangement such claimant may be entitled to benefits under the Minnesota employment security law or a similar law of any other participating state in which such wage credits have accrued, but such wage credits are insufficient to qualify such claimant for benefits under the law of any single state in which the wages were earned, such wages shall, in accordance with the interstate arrangement for the combining of wage credits, be deemed to be wages for covered employment and the wage credits resulting from wages so earned combined for the purpose of determining the claimant's rights to benefits under the Minnesota employment security law or under a similar law of any other participating state.

Subp. 2. Paying state reimbursement. The paying state shall be reimbursed for benefits paid by it pursuant to such interstate reciprocal arrangement by each state which has transferred wage credits to such paying state pursuant to such arrangement in the same proportion as the wage credits transferred by each such state bear to the claimant's total combined wage credits.

Subp. 3. Not determining future taxes. Benefits paid from the Minnesota unemployment compensation fund pursuant to such interstate reciprocal arrangement shall not be used as a factor in determining the future tax rate of any employer.

Subp. 4. Definitions. "Participating state" means any state which is a party to the interstate reciprocal arrangement or agreement.

"Paying state" means the participating state in which the claim for benefits has been filed.

"Transferring state" means a participating state which transfers to the paying state a record of wage credits currently available in such state for the payment of benefits, any part of which is used by the paying state to determine the benefit rights of a claimant.

Statutory Authority: *MS s 268.021*

History: *L 1997 c 66 s 80*

3310.2500 EXTENDED INTERSTATE PLAN FOR COMBINING WAGE CREDITS.

Subpart 1. Interstate reciprocal agreement to combine wage credits. Commencing April 1, 1956, whenever a claimant has wage credits in two or more states which are parties to an interstate reciprocal arrangement, upon the basis of which arrangement such claimant may be entitled to benefits under the Minnesota employment security law or a similar law of any other participating state in which such wage credits have accrued, and such wage credits are sufficient to qualify the claimant for benefits but for less than maximum benefits in any one of such states, benefits to such claimant may be increased but not to exceed the maximum in such state by combining wage credits in such state with wage credits in all participating transferring states in which the claimant has insufficient wage credits for a valid claim.

Subp. 2. Reimbursement of paying state. The paying state shall be reimbursed for benefits paid by it pursuant to such interstate reciprocal arrangement by each state which has

transferred wage credits to such paying state in accordance with the reimbursement provisions agreed to by all states participating in such interstate reciprocal arrangement.

Subp. 3. **Not charged to experience rating account of employer.** Benefits paid from the Minnesota unemployment compensation fund pursuant to such reciprocal arrangement, shall not be charged to the experience rating account of any Minnesota base period employer in any such claim for benefits in excess of the amount such base period employer would have been charged on any such valid claim in which Minnesota is the paying state had benefits not been increased by combining wage credits from one or more other participating states.

Since under this plan wage credits will not be transferred to a participating state if such wage credits are sufficient to establish for the claimant a valid claim for benefits in Minnesota, reimbursements to any other participating state from the Minnesota unemployment compensation fund shall not, in accordance with Minnesota Statutes, section 268.06, subdivision 5, clause (2), be charged to the experience rating account of any employer from whom such wages were earned.

Subp. 4. **Definitions.** "Participating state" means any state which has subscribed to the extended interstate plan for combining wage credits.

"Paying state" means a participating state, chosen by the claimant, in which qualifying wage credits entitle the claimant to less than maximum benefits in such state.

"Transferring state" means a participating state in which the claimant lacks wage credits sufficient to qualify for benefits and which transfers to the paying state a record of the claimant's wages currently available in such state for the payment of benefits, any part of which is used by the paying state to determine the combined wage claimant's benefit rights under the extended interstate plan for combining wage credits.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.2600 CONSOLIDATED INTERSTATE PLAN FOR COMBINING WAGE CREDITS.

Subpart 1. **Application.** Whenever all of a claimant's wage credits are in states participating under this plan, this plan shall apply regardless of eligibility under either the basic or extended interstate plans for combining wage credits outlined in part 3310.2400 and 3310.2500 provided that whenever some of a claimant's wage credits are in a nonparticipating state this plan shall apply only if the claimant elects to waive combining such employment. In absence of such waiver, the claimant's wage credits shall be combined as outlined in part 3310.2400 or 3310.2500 whichever is applicable.

Subp. 2. **Definitions.** Unless the language or context clearly indicates otherwise, the following terms shall be given the meanings subjoined to them:

A. "Consolidated combined wage claim" means a claim filed under this plan.

B. "Consolidated combined wage claimant" means a claimant who has wage credits in more than one participating state and who as to one or more such states is not monetarily qualified and who has filed a claim under this plan.

C. "Participating state" means any state which has subscribed to this plan.

D. "Paying state" means:

(1) As to a consolidated combined wage claimant who is not monetarily qualified in any state, the participating state in which the claimant filed a consolidated combined wage claim if he or she thereby becomes monetarily qualified. If the claimant does not thus become monetarily qualified, it means the participating state the claimant selects from among those states in which he or she has wage credits.

(2) As to a consolidated combined wage claimant who is monetarily qualified in one or more states, the participating state selected by the claimant in which he or she has qualifying wages for less than the maximum benefits in such state.

E. "Transferring state" means a participating state which transfers to the paying state wage credits in the base period of the paying state.

Subp. 3. **Filing for claims.** Claims for benefits shall be filed by a consolidated combined wage claimant in the same manner as any other claimant who is claiming benefits un-

der the employment security law of the paying state. If claims are filed in a state other than the paying state, the interstate benefit payment provisions of parts 3310.1500 to 3310.2200 shall apply.

Subp. 4. Payment from the unemployment compensation fund. Benefits shall be paid from the unemployment compensation fund of the paying state in accordance with the benefit formula of the paying state to the same extent as if all transferred wages were wage credits under the law of the paying state.

Subp. 5. Wages paid included in determining benefit rights. Wages paid to a consolidated combined wage claimant during the paying state's base period and reported for that period by a transferring state as currently available shall be included by the paying state in determining benefit rights. Such wages used as the basis for determination of benefits by the paying state shall be unavailable for determining or paying benefits under the employment security law of the transferring state or any other state.

Subp. 6. Reimbursement of paying state. The paying state shall be reimbursed for benefits paid pursuant to the consolidated interstate plan for combining wage credits in the same proportion as the wage credits transferred by each transferring state bear to the claimant's total combined wage credits.

Subp. 7. Not charged to experience rating account of employer. Benefits paid from the Minnesota unemployment compensation fund pursuant to a consolidated combined wage claim shall not be charged to the experience rating account of any Minnesota employer in excess of the amount such employer would have been charged had such benefits not been increased by combining wage credits from other participating states.

Subp. 8. Wage credits not transferred. Wage credits will not be transferred to a participating state if such credits are sufficient to establish a valid claim for benefits in Minnesota; therefore, reimbursement to any other participating state shall not be charged to the experience rating account of any employer from whom such wage credits were earned.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

DETERMINATION OF CLAIMS FOR BENEFITS AND APPEALS

3310.2700 DEPARTMENT'S DETERMINATION RELATING TO VALIDITY OF CLAIM.

Subpart 1. Separation notices. Whenever an individual reports to file a claim for benefits, an individual shall be required to furnish separation notices received from base period employers.

Subp. 2. Request for wage and separation information. Upon the filing of an initial claim for benefits, the department shall send to each base period employer a request for wage and separation information which the employer shall complete and return to the department within seven days after the date on which such form was mailed to the employer. In addition to such other information as may be required, such requests shall be completed by the employer to provide the following information:

- A. the total wage credits earned in the base period;
- B. the number of credit weeks which end in the base period;
- C. the week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;
- D. the dates on which the worker's employment began and terminated;
- E. the reason for separation or separations of such individual from the employ of the employer; and
- F. the employer's protest, if any, relating to the ineligibility or disqualification of the individual.

The commissioner may adopt special procedures for obtaining wage and separation information during periods of mass layoff.

Subp. 3. Late fee. An employer who fails, without good cause, to file the wage and separation information required by parts 3310.2700 to 3310.3300 within seven days after the

date such request was mailed to the employer's last known address shall be liable for a late filing fee of not less than \$5 nor more than \$25 to be paid to the Department of Economic Security and credited to the contingent fund. For the purpose of this subpart, "file" means the delivery of the completed request for wage and separation information to the commissioner or any agents or representatives or the depositing of the same in the United States mail properly addressed to the department with postage prepaid thereon, in which case the same shall have been filed on the day indicated by the cancellation mark of the United States Post Office Department.

Subp. 4. Failure to obtain wage and separation information. Upon failure of the Department of Economic Security to obtain wage and separation information from an individual's employing unit or employing units, a certification may be filed by said individual setting forth, in addition to other information, the following:

A. the name and address of any employing unit for whom said individual performed services during the base period;

B. the total number of credit weeks which end within the base period;

C. the total base period wage credits earned in covered employment with such employing unit;

D. the week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;

E. the inclusive dates of employment; and

F. the reason for separation or separations from the employ of the employing unit.

Such certification shall be accompanied where possible by payroll slips, check stubs, Internal Revenue forms or such other documents which will serve to substantiate the allegations set forth in said certification. When such certification as set forth above has been submitted, department records shall be examined to determine if the employing unit is an employer within the meaning of the employment security law, and if it is found that for the period in question such employing unit is subject, information contained in such certification shall be used to determine the individual's benefit rights. In absence of fraud, if a redetermination of benefit rights based on an employer's late report subsequently cancels or reduces the claimant's benefit entitlement, the claimant shall not be required to make repayment to the fund of any benefits paid prior to such redetermination.

Subp. 5. Initial determination of validity of claim. Upon receipt of wage and separation information from either the employer's report or a claimant's certification, the department shall make an initial determination as to the validity of such claim and deliver or mail a notice thereof to the claimant and all other interested parties. The claimant or any other interested party may appeal such initial determination to an appeal tribunal designated by the commissioner to hear and determine such matters.

Statutory Authority: *MS s 268.021*

History: *ISp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1; L 1997 c 66 s 80*

3310.2800 DEPARTMENT'S DETERMINATION RELATING TO INELIGIBILITY OR DISQUALIFICATION OF CLAIMANT.

Subpart 1. Employer's setting forth ineligibility or disqualification facts. Any employer upon receiving a request for wage and separation information shall, if in the employer's opinion the claimant should be determined ineligible or disqualified or receive benefits pursuant to said claim, raise the issue of ineligibility or disqualification by completing the separation portion of said form setting forth the facts upon which the employer bases the contention that the claimant should be determined ineligible or disqualified to receive benefits.

Subp. 2. Written determination, notice sent to claimant and employer. Upon receipt of a protest of eligibility or disqualification filed by an employer on a request for wage and separation information on a valid claim, such issue or issues shall be considered and a determination in writing made with respect thereto and a notice thereof mailed or delivered to the claimant and the employer. The claimant or other interested party may appeal said initial determination to an appeal tribunal.

Subp. 3. Disputed claim sent to appeal tribunal. The commissioner may in the commissioner's discretion refer any disputed claim directly to an appeal tribunal for a hearing

and determination in accordance with the procedure prescribed by this rule with respect to cases heard on appeal.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.2900 [Repealed, 12 SR 2252]

3310.2901 SCOPE AND PURPOSE.

Parts 3310.2901 to 3310.2928 establish procedures for hearings conducted by department referees on the appeal of department determinations about the validity of claims for reemployment insurance benefits referred to in part 3310.2700, subpart 5, determinations pertaining to eligibility or disqualification from reemployment insurance benefits referred to in part 3310.2800, charges to employers' accounts and tax rate assignments under Minnesota Statutes, section 268.051, subdivision 6, determinations on an employing unit's liability to pay unemployment taxes under Minnesota Statutes, section 268.12, subdivision 13, determinations on the erroneous or fraudulent payment of reemployment insurance benefits under Minnesota Statutes, section 268.18, and all other appeals which are decided by referees of the appellate office either by law or rule.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 79,80*

3310.2902 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 3310.2901 to 3310.2928, the terms defined in this part have the meanings given them.

Subp. 2. **Appellate office.** "Appellate office" means the appellate office of the Department of Economic Security.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Economic Security or a designee.

Subp. 4. **Department.** "Department" means the Department of Economic Security.

Subp. 5. **Party.** "Party" means any reemployment insurance benefits claimant or employer whose legal rights, duties, or privileges will be directly determined in a hearing and any authorized representative of the claimant or employer.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1994 c 483 s 1; L 1997 c 66 s 80*

3310.2903 METHODS OF FILING APPEALS.

Appeals may be delivered to or filed at the appellate office or any reemployment insurance benefits office of the department or through the United States mail. Appeals filed by mail must be properly addressed to the department with postage prepaid, and the date of filing is the postmark date.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 80*

3310.2904 CONTENTS OF APPEAL DOCUMENTS.

An appeal must be in writing, be signed by the appealing party or an authorized representative, must identify the person appealing, and must describe the determination or order appealed from with sufficient clarity to allow the department to ascertain the determination or order. If the term "appeal" is not used but the person's written statement indicates by its meaning that a review of the determination or order is desired, the statement shall constitute an appeal. The appeal should contain the following nonjurisdictional information:

A. the name, address, and social security number of the claimant if the appeal involves a claim for reemployment insurance benefits, and the unemployment tax identification number of the employer if the appeal involves an unemployment tax liability or rate determination;

B. reference to the determination or order from which the appeal is taken; and

C. the fact that an appeal from that determination is being made.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 80*

3310.2905 NOTICE OF APPEAL.

Subpart 1. **Notice.** When a party files an appeal, the department must promptly send notice of the appeal and a copy of the appeal to all interested parties involved in the issue under consideration. The notice of appeal shall identify the determination from which the appeal is taken.

Subp. 2. **Information.** The notice of appeal shall also include the following information:

A. A statement that a hearing will be scheduled promptly, and that the parties should begin to prepare for the hearing.

B. A statement of the parties' right to represent themselves or to be represented by an attorney or other duly authorized representative.

C. A brief description of the procedure to be followed at the hearing.

D. A statement that the parties should bring to the hearing all documents, records, and witnesses they need to support their position.

E. A statement that a party may request the witnesses and documents that another party intends to bring to the hearing, and an explanation of the process for making the request.

F. A statement that subpoenas may be available to compel the attendance of witnesses or the production of documents, and an explanation of the process for requesting a subpoena.

G. A statement that documents to be introduced at the hearing as department exhibits are available upon request, and an explanation of the process for making the request.

H. If a decision issued pursuant to part 3310.2926 could result in a determination that a party has been overpaid benefits, the notice shall contain the following statement: "You have already received benefits on your claim. It is important for you to attend this hearing even if you are back to work and not receiving benefits now, because if you lose the appeal, you will not be able to receive further benefits and you will have to pay back all the benefits you have already received. These benefits are called overpaid benefits and they could be deducted from your state income tax refund, rent credit refund, or from a future unemployment compensation claim."

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2906 HEARING OF APPEALS.

Subpart 1. **In person hearings.** Except as provided in subpart 2, hearings shall be conducted in person with the referee and all parties present at the same location.

Subp. 2. **Telephone conference hearings; split hearings; and hearings based on written interrogatories.**

A. Subject to part 3310.2907, a hearing by telephone may be scheduled under the following circumstances:

(1) the parties are at such locations as to make a prompt in-person hearing impractical; or

(2) the appeal involves a single party hearing.

B. A split hearing with the parties present at different times and locations before a referee may be scheduled only if an in-person or telephone conference hearing is not possible.

C. A hearing through means of written interrogatories to the parties by the referee may be conducted only when one of the parties is found in a foreign jurisdiction and an in-person, telephone conference, or split hearing is not possible.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2907 PROMPT SCHEDULING OF HEARINGS.

Hearings shall be scheduled as promptly as possible by the appellate office.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2908 RESCHEDULING.

Requests to reschedule a hearing must be addressed to the appellate office in advance of the regularly scheduled hearing date. The request may be made in person, by telephone, or in writing. Unless a determination is made by the appellate office that a request to reschedule a hearing is made for the purposes of delay, a hearing shall be rescheduled by the appellate office based on a party's need for additional time to obtain necessary evidence or to obtain representation or adequately prepare, inability to be present at the regularly scheduled time due to illness, other judicial or quasi-judicial proceedings which have previously been scheduled, or other compelling reasons beyond the control of the party which prevent attendance at the originally scheduled time. A hearing may be rescheduled only once except in the case of an emergency. If requested by the appellate office, a letter confirming the reasons for requesting that the case be rescheduled shall be provided to the appellate office by the requesting party.

Unless a determination is made by the referee that a request to reschedule a hearing is made for the purpose of delay, a referee who has been assigned a case for hearing shall reschedule a hearing at the request of a party provided grounds for rescheduling as set forth above have been established. The failure of subpoenaed witnesses to appear at the hearing or the failure to produce subpoenaed documents may constitute grounds for rescheduling.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2909 REQUESTS FOR IN-PERSON HEARINGS.

Upon the filing of an appeal, upon the receipt of a notice of appeal, or after receiving notice of a telephone conference hearing, any party may request an in-person hearing. When a telephone conference hearing is scheduled, all parties shall be notified in writing on the notice of hearing of their right to request, and the procedure for requesting, an in-person hearing. The request shall be granted unless it is impractical to hold an in-person hearing due to the location of the parties or if granting the request would unreasonably delay the time period in which the hearing could be held.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2910 NOTICE OF HEARING; CONSOLIDATION OF ISSUES.

The notice of hearing shall be mailed to each party at the last known address at least ten days before the scheduled date of hearing unless otherwise provided by law, or when notice is waived by the parties. The notice shall state the time, date, and place of the hearing, the name of the referee who will hear the case, the issues to be considered at the hearing, and shall contain the information required by part 3310.2905, subpart 2, items B to H. If the issue to be considered at the hearing involves a disqualification from reemployment insurance benefits, the notice shall explain that either the issue of misconduct or voluntary termination without good cause attributable to the employer may be heard if the facts brought out at the hearing so warrant, and the parties should be prepared to discuss all incidents which arose during the course of the employment which led to the separation. The parties shall also be advised of their right to represent themselves or to be represented by an attorney or other duly authorized representative. Upon the motion of a party to a hearing or on the referee's motion, the referee may consolidate for hearing issues involving the same parties and may take testimony and render a decision on issues not listed on the notice of hearing if each party is so notified on the record at the hearing and does not object on the record.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 80*

3310.2911 INTERPRETERS.

The department shall provide an interpreter, when necessary, upon the request of a party. The requesting party shall notify the appellate office at least seven calendar days before the date of the hearing that an interpreter is required. If no request is made, the referee shall continue any hearing where a witness or principal party in interest is a handicapped per-

son so that an interpreter can be appointed. All notices and other documents distributed to parties and witnesses by the appellate office shall be prepared in easily understood English.

A written statement in English, Spanish, Laotian, Vietnamese, Cambodian, and Hmong which states that the accompanying documents are important, and that if the reader does not understand the documents, the reader should seek immediate assistance, shall accompany all notices and written documents distributed by the appellate office to the party whenever the office has reason to believe the primary language of the party is one of those previously listed other than English.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2912 EXHIBITS IN TELEPHONE CONFERENCE HEARINGS.

Upon receipt of notice of a telephone conference hearing, and no later than five calendar days before the scheduled time of hearing, parties may submit to the department any documents they wish to offer as exhibits at the hearing. Copies of the documents as well as all documents which are to be introduced as department exhibits shall be mailed to all parties by the appellate office in advance of the hearing. If a party moves to introduce additional documents during the course of the hearing, and the referee rules that the documents should be admitted into evidence, the moving party shall send copies of the documents to the referee and the opposing party. The record shall be left open for sufficient time for the submission of a written objection and for response to the documents. The response may be in writing or the referee may, when appropriate, reconvene the telephone conference hearing to obtain a response or permit cross-examination regarding the late filed exhibits.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2913 ACCESS TO DATA.

The parties to a hearing shall be allowed reasonable access to department data necessary to represent themselves properly in proceedings under parts 3310.2901 to 3310.2928. Access to data under parts 3310.2901 to 3310.2928 shall be consistent with Minnesota Statutes, section 268.19, Minnesota Statutes, chapter 13, and other laws relating to data practices. Upon oral or written request by a party or the party's authorized representative, the appellate office shall provide copies of documents that are to be introduced as department exhibits. The copies shall be provided at no cost and, upon request, shall be mailed to the party or the party's authorized representative.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 79*

3310.2914 SUBPOENAS AND DISCOVERY.

Subpart 1. **Subpoenas.** Subpoenas are available to a party to compel the attendance of witnesses, the production of documents or other exhibits upon a showing of necessity by the party applying for subpoenas. Subpoenas may be obtained by calling or writing the appellate office sufficiently in advance of the scheduled hearing to allow for the service of the subpoenas. The requesting party must identify the person or documents to be subpoenaed, the subject matter of the evidence requested, and their necessity. A request for a subpoena may be denied if the testimony or documents sought would be irrelevant, immaterial, or unduly cumulative or repetitious. A request for a subpoena may be renewed when a party finds an additional basis or need for evidence.

A party whose request for a subpoena has been denied may request at the time of the hearing that the referee who conducts the hearing issue the subpoena. If the referee grants the request for a subpoena, the referee may adjourn the hearing to allow a sufficient time for service of and compliance with the subpoena.

Subp. 2. **Discovery.** Each party, within three working days following demand by another party, shall disclose the name of the party's attorney or other representative and the names of all witnesses the party intends to call at the hearing and identify any written documents that the party intends to introduce at the hearing. The demand and the response may be made by

mail or by telephone. The demanding party shall be permitted to inspect any identified documents at a mutually agreeable time and location prior to the hearing if a demand to inspect is made at least three working days before the hearing. Unless otherwise agreed, the demanding party shall be permitted to reproduce copies of any identified documents only when reproduction is possible without removing them from a party's possession. Any witnesses unknown at the time of the disclosure shall be disclosed as soon as they become known. If a party fails to comply with the disclosure requirements of this subpart, the referee shall, upon request by the demanding party, consider rescheduling the hearing pursuant to part 3310.2908.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2915 DISQUALIFICATION OF REFEREE.

A referee shall remove himself or herself from any case where the referee believes that presiding over the case would create the appearance of impropriety. No referee may hear any case where any of the parties to the appeal are related to the referee by blood or marriage. A referee shall not hear any case if the referee has a financial or personal interest in the outcome. A referee having knowledge of such a relationship or interest shall immediately remove himself or herself from the case.

Any party may move for the removal of a referee by written application of the party together with a statement of the basis for removal. Upon the motion of the party, the director of the appellate office shall decide the fitness of the referee to hear the particular case.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2916 REPRESENTATION BEFORE REFEREE.

Any individual may personally appear in any proceeding before a referee and may be represented by an attorney or a duly authorized representative. Any partnership may be represented by any of its members, an attorney, or other duly authorized representative. Any corporation or association may be represented by an officer, an attorney, or other duly authorized representative.

The commissioner may refuse to allow any person to represent others in any proceeding before a referee if that person is unethical in conduct or intentionally and repeatedly fails to observe the provisions of the law or rules relative to such proceedings or the instructions of the commissioner or a referee.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2917 PUBLIC ACCESS TO HEARINGS.

Appeal hearings are public hearings. A referee may exclude nonessential persons only when necessary due to physical space limitations or to maintain decorum. Upon the referee's motion or upon the motion of a party, a referee may sequester witnesses due to space limitations or to avoid prejudice or collusion.

The referee shall make a tape recording of all testimony that is the official record. No other voice recordings or pictures shall be made in the hearing room of any party, attorney, representative, or witness involved in the hearing while the hearing is in session.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2918 APPEARANCES AT TELEPHONE CONFERENCE HEARINGS.

Appearances before a referee at telephone conference hearings shall be by telephone. The parties must notify the appellate office of the telephone number where they can be reached at the scheduled hearing time. The parties must also notify the appellate office of the telephone numbers of their attorney, representative, or witnesses. The notifications shall be made as far in advance of the hearing as possible.

Whenever a party does not have a telephone or access to one, they may appear by telephone from an area office of the department.

Telephone conference hearings may also be held at area offices of the department with the parties present in the area office and the referee at a different location communicating by telephone.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2919 DATA PRACTICES NOTICE.

At the beginning of each hearing, a referee shall advise the parties in the following or a similar manner of the data practices implications of the hearing:

"The purpose of this hearing is to take testimony and evidence. This information will be used to decide your rights under Minnesota law. Certain other government officials may have access to information provided at this hearing if this is allowed by statute or the information may be disclosed pursuant to valid court order."

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2920 ADMINISTRATION OF OATH OR AFFIRMATION.

Before testifying, every witness shall be required to declare to testify truthfully, by oath or affirmation. The mode of administering an oath shall be as practiced in this state. The form of the oath or affirmation shall be as set forth in Minnesota Statutes, sections 358.07 and 358.08.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2921 CONDUCT OF HEARING.

The order of presentation of evidence shall be determined by the referee. The referee shall inform the parties of their burdens of proof before the taking of testimony.

Each party may present and examine witnesses and offer their own documents or other exhibits. To the extent permitted by Minnesota Statutes, section 268.19, and other laws pertaining to the protection of data, a party shall be provided with a copy of any document or exhibit accepted into evidence upon the request of the party. Opposing parties shall have the right to examine witnesses, object to exhibits and testimony, and cross-examine the other party's witnesses. The referee should assist unrepresented parties in the presentation of evidence. The referee shall rule upon evidentiary objections on the record. The referee shall permit rebuttal testimony. Parties shall have the right to make closing statements. Closing statements may include comments based upon the evidence and arguments of law. The referee may limit repetitious testimony and arguments.

The referee shall exercise control over the hearing procedure in a manner that protects the parties' rights to a fair hearing. The referee shall ensure that relevant facts are clearly and fully developed.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 79*

3310.2922 RECEIPT OF EVIDENCE.

Only evidence received into the record of any hearing may be considered by the referee. The parties may stipulate to the existence of any fact or the authenticity of any exhibit.

All competent, relevant, and material evidence, including records and documents in the possession of the parties which are offered into evidence, shall be part of the hearing record. A referee may receive any evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. A referee may exclude any evidence which is irrelevant, immaterial, unreliable, or unduly repetitious. A referee shall not be bound by statutory and common law rules of evidence. The rules of evidence may be used as a guide in a determination of the quality and priority of evidence offered. A referee may draw adverse inferences from the

refusal of a party or witness to testify on the basis of any privilege. A referee shall only use reliable, probative, and substantial evidence as a basis for decision.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2923 OFFICIAL NOTICE.

A referee may take official notice of adjudicative facts and matters of common knowledge and may take notice of facts within the referee's specialized knowledge in the field of reemployment insurance benefits. Any fact officially noticed shall be noticed on the record in the decision. Parties shall be notified of any facts officially noticed by the referee and shall be given an opportunity to contest the noticed facts.

A referee may officially note any facts which are subject to judicial notice in the courts of Minnesota.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1997 c 66 s 80*

3310.2924 EX PARTE COMMUNICATIONS.

Private communication between a referee assigned to an appeal and one or more of the parties to an appeal, in the absence of the other parties to the appeal, is forbidden if it relates to the substance of the matter at issue. Private communication is to be avoided even when it does not relate to the subject matter of the appeal if it would create the appearance of impropriety.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2925 NONAPPEARANCES.

When a party fails to appear at a regularly scheduled hearing, the referee may issue a decision based upon the evidence that is available unless it appears that there is good and sufficient cause to reschedule the hearing.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2926 DECISIONS.

Following the conclusion of the hearing of an appeal, a referee shall, within a reasonable time, issue a decision. No factual information or evidence which is not part of the record shall be considered by the referee in reaching a decision. Decisions of a referee shall contain a statement of the date and place of hearing, the parties in attendance, and the procedural history of the claim from which the appeal is taken.

Decisions shall contain a statement of the issue involved, findings of fact, reasons for the decision which apply the law to the facts, and a decision. Decisions may contain additional material at the discretion of a referee.

Decisions made by a referee shall be filed in the state office of the Department of Economic Security at Saint Paul, Minnesota. Notice of the filing of a referee's decision together with a copy of the decision shall be mailed to all parties to the appeal. Every decision shall contain a prominent statement indicating in clear language the method of appealing the decision, the time within which the appeal must be made, and the consequences of not appealing the decision.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252; L 1994 c 483 s 1*

3310.2927 WITHDRAWAL OF APPEAL.

Any party who has filed an appeal may withdraw the appeal at any time before the decision is issued by a referee. All withdrawals must be in writing signed by the party or an authorized representative or placed on the record of the hearing by the party or an authorized representative. Withdrawals in writing must identify the appeal that is being withdrawn. Upon the

filing of a withdrawal, the referee before whom the matter is pending shall issue an order dismissing the appeal.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.2928 APPEAL OF REFEREE'S DECISION.

A decision of a referee may be appealed to the commissioner in accordance with applicable statutes and rules relating to appeals to the commissioner.

Statutory Authority: *MS s 268.021; 268.10 subds 4,6*

History: *12 SR 2252*

3310.3000 APPEAL TO COMMISSIONER.

Any interested party may, within 12 days after the date of mailing to such party a notice of the filing of an appeal tribunal's decision, appeal from such decision and obtain a review thereof by the commissioner.

The party appealing shall file at the employment office where the claim was filed, or at the state office of the Department of Economic Security at Saint Paul, Minnesota, a notice of appeal in writing addressed to the commissioner of the Department of Economic Security, setting forth:

- A. the name, address, and social security account number of the claimant;
- B. reference to the decision from which the appeal is taken;
- C. the fact that an appeal from such decision is being made; and
- D. the grounds upon which such appeal is based.

Such notice of appeal shall be signed by the party appealing. In addition, one copy of such notice of appeal shall be submitted to the Department of Economic Security for each party to the matter on appeal other than the appellant.

All hearings before the commissioner shall be scheduled for the earliest possible date and a notice thereof shall be mailed to all parties to the matter to be heard, at least ten days before the date of hearing, specifying the time and place of hearing.

In hearings on appeals before the commissioner, the arguments shall be limited to the transcribed testimony taken before the appeal tribunal, the exhibits, the law, and the rules adopted by the commissioner, and may be made orally or submitted by written briefs, or both.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; L 1994 c 483 s 1*

3310.3100 APPLICATIONS TO THE COMMISSIONER FOR LEAVE TO TAKE ADDITIONAL EVIDENCE.

The commissioner in the commissioner's discretion may, prior to or upon the hearing of an appeal, or upon application and proper showing made, set aside the findings of fact and decision of the appeal tribunal and remand any matter to the appeal tribunal for the taking of such additional evidence as the commissioner may deem necessary in order to ascertain the substantial rights of the parties to the appeal. Such evidence shall be taken by the appeal tribunal in the manner prescribed for the conducting of hearings on appeal before it. Upon the completion of the taking of additional evidence, the appeal tribunal shall make its findings of fact and decision in writing based upon all of the evidence adduced before it at the original hearing and the hearing to take additional evidence.

Application to the commissioner for leave to take additional evidence shall be filed with the commissioner not later than five days preceding the date of the hearing on appeal upon proper and sufficient showing made setting forth the names of the witnesses who will testify and the substance of the evidence to which they will testify, or if such evidence is of a documentary nature, the original documents or verified copies thereof shall be attached to such application. In addition one copy of such application, affidavits, and documents shall be submitted for each party to the appeal other than the applicant.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

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3310.3200 DETERMINATION OF APPEALS.

Following the conclusion of a hearing on appeal, the commissioner shall, within a reasonable time, make findings of fact and a decision in writing.

Decisions made by the commissioner shall be filed in the state office of the Department of Economic Security at Saint Paul, Minnesota. Notice of the filing of the commissioner's decision together with a copy of the decision shall be mailed to the claimant, to all other parties of the appeal, and to members of the appeal tribunal which heard the appeal in the first instance.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.3300 REVIEW OF DECISION.

The commissioner's decision is reviewable by the supreme court on writ of certiorari as provided for by Minnesota Statutes, section 268.10, subdivision 8.

Statutory Authority: *MS s 268.021*

3310.3400 EXPERIENCE RATING AND RATE DETERMINATIONS.

Any employer may within 30 days from the date of mailing notice of charges made against the employer's experience rating account because of benefits paid to claimants, or within 30 days from the date of mailing a notice of the experience rating and tax rate for any calendar year, file with the Department of Economic Security a notice of protest and request for review of such determination. Upon receipt of such notice of protest or request for review, the matter will be reviewed and redetermined and notice thereof given to the employer. This redetermination shall be the final determination of the department unless the employer files an appeal therefrom within ten days from the date of such determination.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1; L 1997 c 66 s 80*

3310.3500 [Repealed, 12 SR 2252]

3310.3600 [Repealed, 12 SR 2252]

3310.3700 APPEAL TO THE COMMISSIONER.

Any employer may within 12 days from the date of mailing a notice to the employer of the filing of a referee's decision appeal from such decision and obtain a review thereof by the commissioner by filing with the Department of Economic Security, Saint Paul, Minnesota 55101, a notice of appeal in writing setting forth:

- A. the name, address, and Minnesota account number of the employer;
- B. reference to the decision from which the appeal is taken;
- C. the fact that an appeal from such decision is being made; and
- D. the grounds upon which such appeal is based.

Such notice of appeal shall be signed by the employer appealing.

All hearings before the commissioner shall be scheduled for the earliest possible date and a notice thereof shall be mailed to the employer at least ten days before the date of hearing specifying the time and place of hearing.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.3800 HEARING OF APPEALS.

Subpart 1. **Procedure.** In hearings on appeals before the commissioner, the arguments shall be limited to the transcribed testimony taken before the referee, the exhibits, the law, and the rules adopted by the commissioner, and may be made orally or submitted by written briefs, or both.

Subp. 2. **Applications to the commissioner for leave to take additional evidence.** The commissioner in the commissioner's discretion may, prior to or upon the hearing of an appeal, or upon application and proper showing made, set aside the findings of fact and deci-

sion of the referee and remand any matter to the referee for the taking of such additional evidence as the commissioner may deem necessary in order to ascertain the substantial rights of the parties to the appeal. Such evidence shall be taken by the referee in the manner prescribed for the conducting of hearings on appeal. Upon the completion of the taking of additional evidence, the referee shall make findings of fact and a decision in writing based upon all of the evidence adduced at the original hearing and the hearing to take additional evidence.

Application to the commissioner for leave to take additional evidence shall be filed with the commissioner not later than five days preceding the date of the hearing on appeal upon proper and sufficient showing made setting forth the names of the witnesses who will testify and the substance of the evidence to which they will testify, or if such evidence is of a documentary nature, the original documents or verified copies thereof shall be attached to such application.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.3900 DETERMINATION OF APPEALS.

Following the conclusion of a hearing on appeal, the commissioner shall, within a reasonable time, make findings of fact and a decision in writing.

Decisions made by the commissioner shall be filed in the state office of the Department of Economic Security at Saint Paul, Minnesota 55101.

Notice of the filing of the commissioner's decision together with a copy of the decision shall be mailed to the employer.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.4000 REVIEW OF DECISION.

The commissioner's decision is reviewable by the supreme court on writ of certiorari as provided for by Minnesota Statutes, section 268.10, subdivision 8.

Statutory Authority: *MS s 268.021*

3310.4100 [Repealed, 12 SR 2252]

3310.4200 [Repealed, 12 SR 2252]

3310.4300 [Repealed, 12 SR 2252]

3310.4400 [Repealed, 12 SR 2252]

HEARINGS TO DETERMINE LIABILITY

3310.4500 HEARING BEFORE THE COMMISSIONER.

The commissioner may on the commissioner's own motion, within 12 days from the date of mailing to all parties to the hearing before the referee notice of the referee's findings of fact and decision, order the matter certified for review.

Any employing unit which is a party to the hearing may, within ten days from the date of mailing to it of a notice of the filing of the referee's findings of fact and decision together with a copy of such findings and decision, appeal therefrom and obtain a review of such findings and decision by the commissioner by filing with the Department of Economic Security, Saint Paul, Minnesota 55101, a notice of appeal in writing setting forth:

- A. the name, address, and Minnesota account number of the employing unit;
- B. reference to the decision from which the appeal is taken;
- C. the fact that an appeal from such decision is being made; and
- D. the grounds upon which such appeal is based.

Such notice of appeal shall be signed by the employing unit so appealing. In addition, one copy of such notice of appeal shall be submitted to the Department of Economic Security for each party to the matter on appeal other than the appellant.

All hearings before the commissioner shall be scheduled for the earliest possible date and a notice thereof shall be mailed to all parties to the matter to be heard, at least ten days before the date of hearing, specifying the time and place of hearing.

In all hearings for review by the commissioner, arguments shall be limited to the transcribed testimony taken before the referee, the exhibits, the law, and the rules relating thereto, and the arguments may be made orally or submitted by written briefs, or both.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.4600 APPLICATIONS TO THE COMMISSIONER FOR LEAVE TO TAKE ADDITIONAL EVIDENCE.

The commissioner in the commissioner's discretion may, prior to or upon the hearing, or upon application and proper showing made, set aside the findings of fact and decision of the referee and remand any matter to the referee for the taking of such additional evidence as the commissioner may deem necessary in order to ascertain the substantial rights of the parties to the appeal. Such evidence shall be taken by the referee in the manner prescribed for the conducting of hearings on appeal. Upon the completion of the taking of additional evidence, the referee shall make findings of fact and a decision in writing based upon all of the evidence adduced at the original hearing and the hearing to take additional evidence.

Application to the commissioner for leave to take additional evidence shall be filed with the commissioner not later than five days preceding the date of the hearing upon proper and sufficient showing made setting forth the names of the witnesses who will testify and the substance of the evidence to which they will testify, or if such evidence is of a documentary nature, the original documents or verified copies thereof shall be attached to such application. In addition, one copy of such application, affidavits, and documents shall be submitted for each party to the appeal other than the applicant.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.4700 DECISION OF THE COMMISSIONER.

Following the conclusion of a hearing, the commissioner shall, within a reasonable time, make findings of fact and a decision in writing.

Decisions made by the commissioner shall be filed in the office of the Department of Economic Security, Saint Paul, Minnesota 55101. Notice of such filing together with a copy of the findings of fact and decision shall be mailed by registered mail to all parties to the hearing.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.4800 REVIEW OF DECISION.

The commissioner's decision is reviewable by the district court on writ of certiorari as provided for by Minnesota Statutes, section 268.12, subdivision 13, clause (4).

Statutory Authority: *MS s 268.021*

3310.4900 [Repealed, 12 SR 2252]

GENERAL PROVISIONS APPLICABLE TO ALL HEARINGS

3310.5000 REPRESENTATION BEFORE A REFEREE, APPEAL TRIBUNALS, AND THE COMMISSIONER.

Any individual may appear for himself or herself in any proceeding before a referee, an appeal tribunal, or the commissioner. Any partnership may be represented by any of its members or any duly authorized representative. Any corporation or association may be represented by an officer or any duly authorized representative.

The commissioner, in the commissioner's discretion, may refuse to allow any person to represent others in any proceeding before the commissioner or any duly authorized representatives who is unethical in conduct or who intentionally and repeatedly fails to observe the provisions of the Minnesota employment security law or the rules and instructions of the commissioner, chair of an appeal tribunal, referee, or any duly authorized representative of the commissioner. Every hearing shall be conducted with decorum and in an orderly manner.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.5100 WITHDRAWAL OF NOTICE OF APPEAL.

Any person having filed a notice of appeal from a determination or decision on any issue may withdraw the same by filing with the Department of Economic Security a written notice thereof at any time prior to the hearing on the matter. Whereupon the referee, appeal tribunal, commissioner or a representative before whom such matter is pending shall issue an order in writing dismissing said appeal, and the said determination or decision with respect to which the appeal was initiated shall have the same force and effect as if such notice of appeal had not been filed.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.5200 DECISIONS ON FILE.

The original decisions of referees, appeal tribunals, and the commissioner shall be kept on file at the state office of the Department of Economic Security at Saint Paul, Minnesota.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; L 1994 c 483 s 1*

3310.5300 [Repealed, 12 SR 2252]**CLAIMS FOR EXTENDED BENEFITS****3310.5400 CLAIM MADE IN PERSON.**

Any individual in order to establish entitlement to extended benefits under the provisions of Minnesota Statutes, section 268.07, subdivision 2, shall report in person to the Minnesota Department of Economic Security at one of its local employment service offices and shall there file a claim for such benefits on a form prescribed by the commissioner. If such individual resides in an area in which the department does not maintain local employment service offices, a claim for benefits may be filed by mail in accordance with the procedures prescribed in parts 3310.1500 to 3310.2200. Such claim shall become effective as of the Sunday of the week in which filed, provided that said claim may be retroactive to the Sunday of the week immediately following the week which exhausted regular benefit entitlement if the failure to file earlier was with good cause.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1*

3310.5500 COMMISSIONER ACTION UPON REQUEST FOR CLAIM.

Upon receipt of a claim for extended benefits, the commissioner shall:

A. Request information from employers and training facilities as necessary to verify qualifying employment, credit weeks, and training. If any employer or training facility fails to provide information within seven days from the date requested, a certification may be filed by said individual setting forth necessary information, and entitlement may be determined on the basis of this and any other available information. In absence of fraud, if a redetermination based on a late report cancels the claimant's entitlement, the claimant shall not be required to make repayment to the fund of any benefits paid prior to such redetermination.

B. Determine whether the claimant has either enrolled in or has completed an approved course of training or retraining.

An individual shall be deemed enrolled during any period in which accepted in an approved training course and said course has not been completed or otherwise terminated. Enrollment during any portion of a week shall qualify the individual for a full week of benefits provided the individual is otherwise eligible.

An individual shall be deemed to have completed a training course when the individual has either satisfactorily completed the requirements of a course of training or if terminated prior to completion, it has been determined that the individual has attained an employability level whereby the individual may reasonably be expected to obtain employment and perform satisfactorily on the job.

A course of training or retraining shall be deemed appropriate and approved for the purpose of establishing entitlement to extended benefits if:

(1) the training or retraining is under a state-federal training program previously approved by the commissioner or in absence of such prior approval if

(2) the training is a planned and systematic sequence of instructions conducted under competent supervision on an individual or group basis leading to a bona fide occupational objective for which there is reasonable expectation of employment.

The above provisions notwithstanding, no course of training or retraining completed more than ten years prior to the benefit year shall be deemed appropriate for extended benefit purposes.

C. Issue a determination on rights to extended benefits and deliver or mail a notice thereof to the claimant. Said determination may be appealed in the manner prescribed in parts 3310.2700 to 3310.3300.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.5600 CONTINUED APPEARANCE TO RECEIVE CLAIM.

Any individual in order to claim weekly benefits shall continue to report in person in accordance with the instructions of the local employment service office provided that the continued claim may be filed by mail if the commissioner finds it impractical for the individual to report at the office as specified.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.5700 PAYABLE IN AMOUNT AND TERMS OF REGULAR BENEFITS.

An individual's extended benefit amount shall be payable in the same amount and under the same terms and conditions as if entitlement were for regular benefits payable under the provisions of Minnesota Statutes, sections 268.03 to 268.25, provided that an individual shall not be deemed unavailable for work by reason of enrollment in training.

Statutory Authority: *MS s 268.021*

History: *17 SR 1279*

3310.5800 PAYMENT OF BENEFITS TO INDIVIDUALS IN APPROVED TRAINING.

Subpart 1. **Scope.** This part shall govern the Minnesota Department of Economic Security in its administration of Minnesota Statutes, sections 268.08 and 268.09, as they relate to payment of benefits to persons in approved training.

Subp. 2. **Approval of training course.** An individual's enrollment in a training course shall be approved for the purposes of Minnesota Statutes, sections 268.08 and 268.09 if the commissioner finds that:

A. reasonable and suitable work opportunities for which the individual is fitted by training, experience, and physical capabilities do not exist in the individual's locality;

B. the training course is commensurate with the individual's abilities and is designed to prepare the individual for available employment;

C. the training is conducted by an agency, educational institution, or employing unit which has been approved by the Minnesota Department of Children, Families, and Learning to conduct training programs. Provided, however, that any agency, educational institution, or employing unit which is not subject to regulation and approval by the Department of Children, Families, and Learning may be approved by the commissioner if the commissioner finds that the curriculum, facilities, staff, and other essentials are adequate to achieve the training objective;

D. the training is vocational in nature or short-term academic training vocationally directed to an occupation or skill for which there are or are expected to be reasonable work opportunities available to the individual;

E. the training program consists of at least 25 hours per week of supervised activity.

Subp. 3. **Conditions to meet for benefits.** An individual who is otherwise eligible under the provisions of Minnesota Statutes, sections 268.03 to 268.24 shall not be denied bene-

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fits for any week in which enrolled in an approved training course if the following conditions, and each of them, are met:

- A. the individual has filed a claim on a form prescribed by the commissioner;
- B. a duly designated person connected with the training course has certified that the individual has been making satisfactory progress in the course; and
- C. the individual has maintained satisfactory progress and attendance provided that the individual's weekly benefit amount shall be reduced by one-fifth for each day of unexcused absence from training.

Statutory Authority: *MS s 268.021*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279; L 1994 c 483 s 1; L 1995 1Sp3 art 16 s 13*