

CHAPTER 27-03-03
CLAIMS FOR PARTIAL UNEMPLOYMENT BENEFITS

Section

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27-03-03-01. Employer responsibility in the initiation of a first claim for partial benefits in a benefit year.

1. Within one week after the termination of the pay period containing a week in which an employer has furnished any worker in the employer's employ less than four full days of work due to lack of work, or the time or dollar earnings equivalent thereof, or, on the customary pay day for the pay period containing the week of partial unemployment, such employer shall give each such worker a copy of form nduc-222, continued claim for partial unemployment benefits, setting forth the information required of the employer thereby.

The worker shall complete form nduc-222 and present or mail it to the nearest local office of the public employment service, or, if the worker completes and returns such form to the worker's employer, the employer shall promptly mail or otherwise transmit such form to the local office of the public employment service nearest the worker's residence.

2. Upon receipt of form nduc-222, continued claim for partial unemployment benefits, the division shall promptly notify the worker named thereon of the worker's potential rights to partial benefits and shall notify the employer of such worker's partial earnings limit and benefit year ending date. Upon receipt thereof, the employer shall record such partial earnings limit and benefit year ending date upon the employer's payroll records. No form or notice as herein described shall be required with respect to any worker whose earnings for the week involved were more than the worker's weekly benefit amount.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-01-01(21), 52-06-06, 52-06-08

27-03-03-02. Employer to furnish evidence of partial unemployment.

1. After an employer has been notified of the weekly benefit amount and current benefit year ending date of any worker in the employer's employ, such employer, until the benefit year expiration date shown on the notice, or until otherwise notified, shall within one week after the termination of a pay period containing the week of partial unemployment furnish such partially unemployed worker a copy of any of the following:
 - a. Form nduc-222, continued claim for partial unemployment benefits, setting forth the information required thereby, including the worker's name and social security account number, the week ending date of such week, the wages earned during the week and the proper certification as to having worked less than the worker's normal customary full-time hours because of a lack of work in such week.
 - b. Written evidence concerning the worker's partial unemployment by means of a pay envelope, pay check stub, or copy thereof, or other suitable medium approved by the division. The information contained in such medium shall be in ink or typewritten and shall show:

- (1) The name and address of the employer.
- (2) The name and social security account number of the worker.
- (3) The week ending date of such week.
- (4) The amount of wages earned in such week.
- (5) The following certification (individual or rubber stamped):

I certify that the above amount represents reduced earnings in the week of less than full-time work because of lack of work.

- (6) A signature (actual or facsimile) by the employer to the above certification, or other positive identification of the authority supplying the evidence.
2. If, after reasonable effort by the division to obtain verification as described in this section, the employer fails to comply with the verification requirements, such failure shall not in itself result in a denial of benefits or undue delay in payment of benefits to the claimants affected.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-01-01(21), 52-06-06, 52-06-08

27-03-03-03. Filing of claims for partial unemployment.

1. A claim for benefits for partial unemployment filed by an individual in person at any local office of the public employment service, or at an itinerant point thereof, on form nduc-222, continued claim for partial unemployment benefits, or on form nduc-211, initial claim, shall constitute such individual's notice of partial unemployment and claim for benefits or waiting period credit with respect to the week of partial unemployment covered by the claim. Such claim shall not be valid if filed twenty-nine or more days after the individual has been furnished information by the individual's employer as to the individual's earnings as provided in section 27-03-03-02.
2. A claim for benefits for any individual on form nduc-222, continued claim for partial unemployment benefits, mailed by the individual, or the individual's employer in the individual's behalf, to a local office of the public employment service shall constitute such individual's notice of partial unemployment and claim for benefits or waiting period credit with respect to the week of partial unemployment covered by the claim; provided, that such form is executed by such individual and returned to the individual's employer or forwarded by such individual to a local office of the public employment service within one week after its delivery to the individual.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-01-01(21), 52-06-06, 52-06-08

27-03-03-04. Extended period for filing of claims for good cause.

Notwithstanding the provisions of section 27-03-03-03, if the division finds that the failure of any individual to register and file a claim for partial unemployment benefits within the time set forth was due to failure on the part of the employer to comply with any of the provisions of this chapter, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claims, or to failure by the division to discharge its responsibilities properly in connection with such partial unemployment, the division shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of the individual's potential rights to benefits and the individual's earnings during the period of such partial unemployment, provided,

however, that such claim shall not be valid if filed thirteen weeks subsequent to the end of the benefit year (actual or potential) during which such week of partial unemployment occurs.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-01-01(21), 52-06-06, 52-06-08

27-03-03-05. Employer's record in connection with partial unemployment.

Employer's payroll records may be kept in any manner best suited to their convenience but, in addition to the requirements set forth in chapter 27-02-02, such records shall be kept in such form that it would be possible from an inspection thereof to determine:

1. Wages earned by weeks.
2. Whether any week of partial unemployment claimed by an individual is in fact a week of less than full-time work.
3. Time lost due to unavailability for work by each worker who may be eligible for partial benefits.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-01-01(21), 52-06-06, 52-06-08