State of North Carolina

ROY COOPER
GOVERNOR

MARCH 1, 2021

EXECUTIVE ORDER NO. 200

REINSTATING WORK SEARCH REQUIREMENTS FOR UNEMPLOYMENT INSURANCE BENEFITS FOR NEW CLAIMANTS

WHEREAS, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165 169-177, 180-181, 183-185, 188-193, 195, and 197-198; and

WHEREAS, on March 17, 2020, with the concurrence of Council of State, the undersigned issued Exec. Order No. 118, 34 N.C. Reg. 1834-1838 (April 15, 2020), Sections 2 and 3 of which streamlined unemployment insurance requirements to ensure availability to the maximum extent allowed by federal law in response to COVID-19; and

WHEREAS, Executive Order No. 118 authorized the North Carolina Department of Commerce ("Department") to waive, or interpret flexibly, as appropriate, Work Search Requirements (as defined below) under N.C. Gen. Stat. § 96-14.9(b); and

WHEREAS, in recent weeks North Carolina has seen improvement in key COVID-19 metrics, including COVID-19 daily diagnoses, the percent of total COVID-19 tests that are positive, the number of emergency department visits that are due to COVID-like illnesses, and the number of COVID-19 associated hospitalizations; and

WHEREAS, the Department's Division of Employment Security has processed unemployment claims from more than 1.4 million North Carolinians since the start of the COVID-19 pandemic; and

WHEREAS, ensuring North Carolinians' safe and expeditious return to work improves livelihoods, supports healthy families, and strengthens our economy; and

WHEREAS, Work Search Requirements help facilitate rapid reemployment of unemployment insurance claimants; and

WHEREAS, Work Search Requirements prevent and reduce incidents of fraudulent unemployment insurance claims; and

WHEREAS, the Department's Division of Workforce Solutions and NCWorks Career Centers—North Carolina's eighty-nine (89) one-stop American Job Centers—provide reemployment services to jobseekers across the state; and

WHEREAS, the Division of Workforce Solutions and NCWorks Career Centers launched virtual reemployment services available in all one hundred (100) counties, including enhanced internet, telephone, and chat services, in order to support jobseekers virtually during the COVID-19 pandemic; and

WHEREAS, in reinstating the Work Search Requirements, it is necessary to permit the Department flexibility in interpreting those provisions that, because of the current health emergency and ongoing pandemic, would otherwise serve as barriers to access to essential benefits that are keeping families afloat and stimulating our economy; and

WHEREAS, limiting the reinstatement of Work Search Requirements to only New Claimants (as defined below) will provide clarity for jobseekers relying on critical benefits, ensure effective communication of Work Search Requirements, and afford the Department time to implement an efficient process to verify requirements are met given the increased number of claims being filed; and

WHEREAS, the undersigned recognizes the need to balance facilitating jobseekers' return to the workplace with reducing barriers to life-sustaining benefits; and

WHEREAS, the lack of internet access, transportation, electronic equipment or other means of communicating with the Department requires the Department to develop flexible and innovative solutions for individuals; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) ("CARES Act"), affords states flexibility to modify or suspend Work Search Requirements in response to the COVID-19 pandemic; and

WHEREAS, on December 27, 2020, the President signed the Consolidated Appropriations Act, Pub. L. No. 116-260, 134 Stat. 1182 (2020), extending the provisions of the CARES Act listed above; and

WHEREAS, the undersigned has therefore determined that to cooperate and coordinate with the President's extension of benefits into 2021 and to balance the need to facilitate reemployment of North Carolinians while also reducing barriers to our most vulnerable communities, Work Search Requirements shall be reinstated for New Claimants; however, the Department shall interpret those provisions with flexibility to reduce barriers to individuals in need of benefits; and

Statutory Determinations and Authority

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4), the undersigned is authorized to "cooperate and coordinate" with the President of the United States and the heads of department and other agencies of the federal government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article"; and

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order No. 118, **IT IS ORDERED**:

Section 1. Work Search Requirements Reinstated, with Flexibility, for New Claimants.

For the reasons and pursuant to the authority above, the undersigned orders as follows:

The Department, through the Secretary of Commerce, Assistant Secretary of Employment Security, and Assistant Secretary of Workforce Solutions, is directed to reinstate the work search requirements, set forth in N.C. Gen. Stat. § 96-14.9(b) ("Work Search Requirements"), as interpreted flexibly, for those unemployment insurance claimants who file on or after March 14, 2021 ("New Claimants"). New Claimants, as that term is used in this Executive Order, excludes claimants who are receiving unemployment insurance and who filed their claims prior to March 14, 2021. In reinstating Work Search Requirements for New Claimants, the Department is directed to remove potential barriers to, and ensure maximum ease for claimants in, fulfilling the requirements.

For avoidance of doubt, Executive Order No. 118 remains in effect for all existing claimants. This Executive Order replaces Section 3(a)(iii) of Executive Order No. 118 for New Claimants only. All other waivers or flexibilities permitted under Executive Order No. 118, other than the Work Search Requirements as reinstated herein, remain in effect for existing and New Claimants.

Section 2. Flexibility in Work Search Requirements for New Claimants.

For the reasons and pursuant to the authority above, the undersigned orders as follows:

To provide the necessary unemployment benefits to those affected by COVID-19, while ensuring that individuals are gradually and safely encouraged to seek employment opportunities, the Department is authorized to interpret flexibly the Work Search Requirements for New Claimants, as appropriate and consistent with Executive Order No. 118, which shall include the following:

a) The Department shall interpret flexibly the requirements of N.C. Gen. Stat. § 96-14.9(e)(3), to account for burdens posed by COVID-19 which may affect one's ability to secure job contacts;
b) The Department shall communicate to New Claimants that they are required to maintain a record of work search activities as required by N.C. Gen. Stat. § 96-14.9(e)(4);
c) The Department shall interpret flexibly the production of records requirements of N.C. Gen. Stat. § 96-14.9(e)(4), to account for barriers to communication, such as lack of internet connectivity, electronic equipment, or transportation, experienced by some New Claimants;
d) The Department shall, as recommended by the United States Department of Labor, establish a comprehensive definition of acceptable work search activities that focus on rapid reemployment, which shall include additional work search activities to satisfy Work Search Requirements, such as virtual workshops and virtual networking opportunities; and

e) For the foregoing reasons, the Department shall develop additional means to verify a claimant's Work Search Requirements, including but not limited to implementing training, policies, and procedures to enable staff to verify and document contact with potential employers by telephone or other remote mechanisms.

Section 3. Mandatory NCWorks Registration.

For the reasons and pursuant to the authority above, the undersigned orders as follows:

A. As part of the work search requirement process, the Department shall create a process to assist and ensure that all New Claimants are registered with a jobseeker account in www.ncworks.gov, North Carolina's information technology portal for employment and training services. Jobseekers with accounts in www.ncworks.gov are provided access to labor market information, opportunities for training scholarships, and can apply for jobs online.

B. The Department is directed to enhance staff training to assist New Claimants in creating a jobseeker account in www.ncworks.gov.

Section 4. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable to law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 5. Distribution.

The undersigned hereby orders that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the State of North Carolina; and (3) distributed to others as necessary, including within the Department of Commerce Division of Employment Security to ensure proper implementation of this Executive Order.

Section 6. Effective Date.

This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 1st day of March in the year of our Lord two thousand and twenty-one.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State