

Facts About Unemployment Insurance Benefits



SOUTH DAKOTA
DEPT. OF **LABOR**
& **REGULATION**

Unemployment Insurance Division
sd.uiclaims.com

DO NOT DISCARD – RETAIN FOR YOUR RECORDS.

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION

JOB SERVICE OFFICES

Open Monday through Friday from 8 a.m. to 5 p.m. unless otherwise noted.

| | | |
|-------------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Aberdeen | 605.626.2340 | 420 S. Roosevelt St. |
| Britton | 605.380.8930 605.626.2340 | Marshall County Community Hall 1st Thursday, 1 - 3 p.m. |
| Mobridge | 605.380.8930 | 205 2nd St. E, Suite 1, 1st and 3rd Wednesdays, 12 – 3 p.m. |
| Redfield | 605.380.8930 605.626.2340 | Spink County Courthouse, 3rd floor 2nd and 4th Tuesday, 1 – 3 p.m. |
| Webster | 605.380.8930 605.626.2340 | Day County Courthouse, basement 2nd and 4th Wednesday, 1 – 3 p.m. |
| Brookings | 605.688.4350 | 1310 Main Ave. S., Suite 103 |
| De Smet | 605.854.3309 | Kingsbury County Courthouse, east side. 101 2nd St. SE 1st Tuesday, 10 a.m. – 12 p.m., 1 – 2 p.m. |
| Huron | 605.353.7155 | 2361 Dakota Ave. S. |
| Lake Andes | 605.487.7607, ext. 1700207 or 1700212 | 140 W. Highway 50 Monday – Friday, 8 a.m. – 4:30 p.m. |
| Madison | 605.256.5300 | 223 S. Van Eps Ave., Suite 101 |
| Flandreau | 605.256.5300 | Flandreau Dept. of Social Services, 218 E. 2nd Ave. By appointment only. |
| Mitchell | 605.995.8060 | 1321 N. Main |
| North Sioux City | 605.242.5445 | 504 River Dr., City Hall Monday, Wednesday – Friday, 8 a.m. – 4 p.m., Tuesday 1:30 – 5 p.m. |
| Pierre | 605.773.3372 | 116 W. Missouri Ave. |
| Rapid City | 605.394.2296 | 2330 N. Maple Ave., Suite 1, 7:30 a.m. – 5 p.m. |
| Hot Springs | 605.394.2296 | Mueller Civic Center, 801 S. 6th St. 2nd & 4th Wednesday, 9:30 a.m. – 3:30 p.m. |
| Pine Ridge | 605.394.2296 | Airport Access Rd. Hwy. 18 E., P.O. Box 400 2nd Tuesday, 10 a.m. – 3 p.m. |
| Sioux Falls | 605.367.5300 | 811 E. 10th St., Dept. 41 |
| Sisseton | 605.698.3964 | 10 E. Hickory St., Suite 3 |
| Spearfish | 605.642.6900 | 1300 North Ave. |
| Vermillion | 605.677.6900 | 904 E. Cherry St. |
| Watertown | 605.882.5131 | 2001 9th Ave. SW, Suite 200 |
| Winner | 605.842.0474 | 325 S. Monroe St., Room, 117 |
| Yankton | 605.668.2900 | 3113 Spruce, Suite 124 |
| Wagner | 605.384.3741 | City Hall 2nd & 4th Wednesdays, 1 - 4:30 p.m. |

TABLE OF CONTENTS

| | |
|-------------------------------------------------------|----|
| Introduction | 1 |
| Eligibility for Benefits | 2 |
| Verification of Information | 2 |
| Electronic Correspondence..... | 2 |
| Benefit Payment Information | 3 |
| Wage Requirements and Benefit Amount Information..... | 3 |
| Can I cancel my claim?..... | 4 |
| When do I have to reopen my claim?..... | 5 |
| Weekly Request for Payment..... | 5 |
| Requirements for Weekly Benefit Payments..... | 7 |
| Deductions from Benefits..... | 9 |
| Disqualifying Circumstances..... | 10 |
| Appealing Disqualifications and Denials..... | 10 |
| Overpayments..... | 10 |
| Penalties for Misrepresentation (Fraud)..... | 11 |
| Trade Adjustment Assistance..... | 11 |
| Quality Control Program..... | 11 |
| Information We May Share..... | 11 |
| Notice about Income Tax..... | 12 |
| Equal Opportunity Employment Rights..... | 12 |
| Glossary of Terms..... | 14 |
| Employer Contact Forms..... | 16 |

This handbook provides information about your rights and responsibilities while filing a claim for unemployment insurance benefits. It is your responsibility to read this handbook along with all information received from the South Dakota Department of Labor and Regulation. In order to prevent fraud, you must follow the guidelines provided to you in this handbook. You commit fraud if you make false statements, provide false information or withhold information to obtain benefits for which you are not eligible. Failure to report all earnings while filing, failure to look for work when required and failure to report a job separation are examples of fraud. See page 11 for penalties.

The handbook may not cover all situations or answer all of your questions. A Glossary of Terms is available on page 14. **If you need more information, please call Customer Service at 605.626.2452.**

Unemployment Insurance provides temporary assistance to eligible workers. It is not based on financial need. Unemployment Insurance benefits are funded by employer taxes. No money is deducted from your paycheck for these benefits.

ELIGIBILITY FOR BENEFITS

For more information, please refer to the pages in parentheses. To receive unemployment insurance benefits, you must:

- Be totally or partially unemployed.
- File an application for benefits.
- Have worked at a job where your employer paid unemployment insurance tax on your wages.
- Lost your job through no fault of your own.
- Be monetarily eligible (see page 3).
- File weekly requests for payment (see page 5).
- Be registered with the Department of Labor and Regulation (DLR) through SDWORKS, or your designated state workforce agency, unless otherwise instructed (see page 7).
- Be able to work and be willing to accept suitable work at the going wage in the area where you live (see page 8).
- Make a reasonable effort to find and apply for work on your own (see page 7).
- Attend all DLR scheduled services that provide you assistance in obtaining employment (see page 7).

VERIFICATION OF INFORMATION

The information that you provide is verified to ensure only those who are entitled to benefits receive them. It is important to always give complete and true information.

- Separation information is verified with your employers.
- Your work and earnings that you report while filing for unemployment are verified with your employer.
- Your reported work search contacts are verified with employers.
- Earnings reported by employers in South Dakota and other states are cross-matched to identify unreported earnings.
- Employers are required to report any new employees that are hired to the National Directory of New Hires. This information is cross-matched to identify whether people are collecting benefits after starting work again.

We also verify your information with other state and federal agencies.

ELECTRONIC CORRESPONDENCE

Can I receive my unemployment insurance correspondence electronically?

You can choose to receive your unemployment insurance correspondence electronically when you agree to receive it through the Electronic Correspondence Center. Electronic Correspondence is convenient and easy to use and allows you to view your information electronically rather than through the mail.

Sign up for Electronic Correspondence on our website once you log into your online unemployment account at www.sd.uiclaims.com. Your unemployment insurance correspondence will be sent to a secure electronic “mailbox” set up for you on our website. For questions about Electronic Correspondence, contact Customer Service at 605.626.2452.

If you do not choose to receive your correspondence electronically, all documents will be mailed to your address of record.

What if I change my address?

Our mail cannot be forwarded to a new address by the post office, so you must contact us with your new address immediately.

You may change your address online at www.sd.uiclaims.com or by calling 605.626.2452. If you do not contact us about your address change immediately, you may lose benefits.

BENEFIT PAYMENT INFORMATION

How will I receive my benefit payments?

All unemployment insurance payments are made electronically. You may choose direct deposit into your own checking or savings account. If you do not select direct deposit a Way2Go Debit Mastercard account will be established for you.

The state of South Dakota partners with Comerica Bank to provide the Way2Go Card Debit Mastercard that works much like a standard debit card. Your benefit payments are deposited into an account created for you by the card issuer. This card adds convenience and security to accessing your unemployment benefit payments. For more information, contact Way2Go Card Customer Service at 1.844.893.3123 or goprogram.com.

To enroll in direct deposit, log into your online unemployment account at www.sd.uiclaims.com and select the “Change Payment Method” option on the main menu. You may also return the direct deposit form that is included in your initial claim packet along with a voided check or a copy of a check. If you signed up for direct deposit on a prior claim, we will use the account information that is on file.

When will I receive my first benefit payment?

- You can expect your first payment to be made three to four weeks after you apply for unemployment benefits.
- You will receive payment if all eligibility requirements are met.
- You will not receive benefits if you are disqualified for any reason.
- You will receive a notice in the mail when you have satisfied your non-paid waiting week.

When will I receive my weekly benefit payments?

- Payments are made two business days after filing your weekly request for payment if no issues are raised when your request for payment is filed.
- Holidays will delay payments.
- Information regarding the status of your weekly request for payment is available online through the South Dakota Unemployment Insurance website at www.sd.uiclaims.com or by telephone at 605.626.3212.

WAGE REQUIREMENTS AND BENEFIT AMOUNT INFORMATION

What are the wage requirements?

To qualify for benefits, you must have been paid wages for insured work, for civilian employment with the federal government, or for active duty in the military service in two or more quarters of your base period. Wages from another state(s) can be used to establish a combined wage claim.

How are benefit amounts calculated?

- Your weekly benefit is 1/26th of the wages paid in the highest quarter of your base period, up to a maximum amount determined by the state’s average weekly wage. Your wages in this high quarter must be at least \$728.
- Also, your wages in the other three quarters of your base period must be at least 20 times your weekly benefit.

The maximum amount payable in your benefit year is one-third of your total base period wages, but not more than 26 times your weekly benefit.

What is the base period?

The following charts can be used to determine the regular base period or the alternative base period. The **regular base period** is the first four of the last five completed calendar quarters before the effective date of your new claim for unemployment insurance benefits.

If you file a new claim, and are not eligible using the regular base period, you may be determined monetarily eligible under an **alternative base period** that uses more recent wages.

There is also an **alternate base period** for persons who are not monetarily eligible because they have not worked for an extended period due to a **work-related** injury. This base period is the first four of the last five completed calendar quarters prior to the injury and can only be used if a claim is filed within 24 months after the injury.

Examples: If you file your claim in May, your regular base period is the previous January through December. However, if not monetarily eligible using the regular base period, your alternative base period would be the previous April through March.

Each square represents a calendar quarter. The squares with regular borders designate the quarter during which the claim was filed. The squares with strong borders designate the base period used to establish the claim.

REGULAR BASE PERIOD

| | | | | | |
|-----|-----|-----|-----|-----|-----|
| OCT | JAN | APR | JUL | | JAN |
| NOV | FEB | MAY | AUG | | FEB |
| DEC | MAR | JUN | SEP | | MAR |
| | JAN | APR | JUL | OCT | APR |
| | FEB | MAY | AUG | NOV | MAY |
| | MAR | JUN | SEP | DEC | JUN |
| | | APR | JUL | OCT | JAN |
| | | MAY | AUG | NOV | FEB |
| | | JUN | SEP | DEC | MAR |
| | | | JUL | OCT | JAN |
| | | | AUG | NOV | FEB |
| | | | SEP | DEC | MAR |

ALTERNATIVE BASE PERIOD

| | | | | | |
|--|-----|-----|-----|-----|-----|
| | JAN | APR | JUL | OCT | JAN |
| | FEB | MAY | AUG | NOV | FEB |
| | MAR | JUN | SEP | DEC | MAR |
| | | APR | JUL | OCT | JAN |
| | | MAY | AUG | NOV | FEB |
| | | JUN | SEP | DEC | MAR |
| | | | JUL | OCT | JAN |
| | | | AUG | NOV | FEB |
| | | | SEP | DEC | MAR |
| | | | | OCT | JAN |
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| | | | | | SEP |
| | | | | | OCT |
| | | | | | NOV |
| | | | | | DEC |

If you are ineligible due to insufficient wages, you may attempt to file during the next calendar quarter.

SEASONAL WAGES

Seasonal wages are wages earned with an employer who customarily suspends operation for a period of five months or more within a calendar year. To be eligible for a seasonal designation, an employer requests the designation and then must be approved by the Department of Labor and Regulation.

Seasonal wages are used to determine your weekly benefit amount. However, the only time you can draw against seasonal wages is during the period the employer would normally be open for business.

You are notified on your monetary determination if you have seasonal wages.

How will I know if I meet the wage requirements?

You will receive a **monetary determination** indicating your weekly and maximum benefit amounts. This determination is usually mailed within five days after your new claim is filed. Missing wages may cause a delay in the mailing of a monetary determination.

This is the first step in determining your eligibility. You may be disqualified depending on the reason you became unemployed or you may be denied benefits if you do not meet other eligibility requirements.

If you have not received a monetary determination after two weeks (three weeks for out-of-state claimants), you should call Customer Service at 605.626.2452.

What if I disagree with the monetary determination?

Examine your monetary determination carefully. If you think you have not been given credit for all wages:

- Call Customer Service at 605.626.2452.
- Request a re-determination.
- Provide proof of your wages (paycheck stubs or W-2 forms).
- Continue to file your weekly request for payment unless you become employed.

If you do not agree with the determination, you may file an appeal (see page 10).

Can I cancel my claim?

If for some reason you want to cancel your claim, you have fifteen days from the date the monetary determination was mailed to submit a written request for cancellation. However, you cannot cancel your claim after a determination disqualifying you from receiving benefits has been issued.

When do I have to reopen my claim?

You must reopen your claim under the following circumstances:

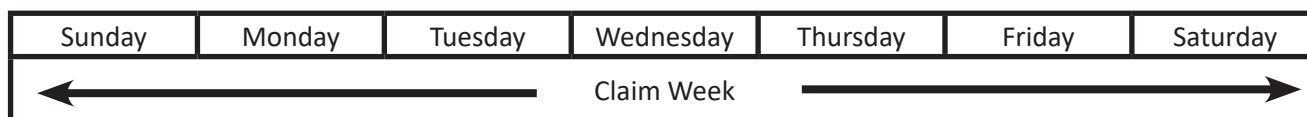
- If you return to work and then separate from that employment, even if it is for one day or less.
(You must reopen your claim immediately following the separation from employment or you may lose benefits.)
- If you have not filed any weekly requests for payment for a period of four or more weeks.
- If you change your address as a result of moving out of South Dakota or moving back to South Dakota.

A claim filed on a Sunday is effective that Sunday, and a claim filed on Monday through Saturday is effective on the Sunday preceding the date the claim was filed. If you do not file the claim within the week for which you wish to receive benefits, you may lose those benefits. You may reopen online at www.sd.uiclaims.com or by calling 605.626.3179.

WEEKLY REQUEST FOR PAYMENT

What is a claim week?

Weekly requests for payment cover a calendar week beginning 12 Midnight on Sunday and ending at 11:59 p.m. (CST) the following Saturday.



When do I file a weekly request for payment?

You may submit your weekly request for payment anytime during the calendar week **following** the week you are requesting benefits. For example, if you want to file a weekly request for payment for the week of January 1 through January 7, you would file your weekly request for payment between 12 Midnight on January 8 and 11:59 p.m. on January 14.

If you do not get your weekly request for payment filed within the one week filing time, you will need to call Customer Service at 605.626.2452 to file a request for payment and provide a reason why it was filed late. Depending on the reason(s), you may or may not receive payment for that week.

How do I file my weekly request for payment?

Filing is available on the Internet or through the Interactive Voice Response (IVR) system using a touch-tone telephone or voice response.

Only **you** are authorized to file your claim for benefits. The responsibility for filing weekly requests for payment cannot be given to another person, including your spouse. You will be held responsible for any false information provided.

Filing a Weekly Request for Payment Online

The online website allows you to use any computer with the following browsers to file your weekly request for payment: Internet Explorer version 8 or newer, Mozilla Firefox version 10 or newer, Safari version 5.15 or newer, Google Chrome version 15 or newer. The website address is www.sd.uiclaims.com. A user ID and password will be required to access this website.

If you are filing through the Internet, **you must receive confirmation that your request for payment has been accepted.** If you log off prior to receiving that confirmation, your request for payment has **NOT** been filed. You will have to log in and resubmit your weekly request for payment and wait for confirmation.

Filing a Weekly Request for Payment by Telephone

The Interactive Voice Response (IVR) allows you to file your weekly request for payment by telephone. It is recommended that you call from a quiet location. The telephone number is: 605.626.3212.

You will need a PIN (Personal Identification Number) when using the telephone system. You will establish this PIN when you file your first weekly request for payment. Your PIN is a four-digit number you have chosen. You may use any combination except 0000. Please have a number in mind when you make your first request for payment by telephone. **DO NOT GIVE YOUR PIN OUT TO ANYONE.** Your PIN is your electronic signature and has the same authority as if you had signed a paper document.

If you are filing through the IVR, **wait until you hear that your request for payment has been recorded.** If you do not hear

that confirmation, your request for payment has **NOT** been filed. You will have to call in and resubmit your weekly request for payment and wait for the statement that the information was recorded.

How do I change my Personal Identification Number (PIN)?

To change your Personal Identification Number, you must contact Customer Service at 605.626.2452. You will be required to provide key information regarding yourself and your claim before you can select a new PIN.

What times can I file my weekly request for payment?

Filing by Internet or telephone is available 24 hours a day, seven days a week. All weekly requests for payment submitted through the Internet or IVR are recorded at Central Time. If for any reason the system is not available due to routine maintenance and processing of unemployment benefit payments, you will receive a message indicating the system is currently unavailable. Please wait approximately two hours before attempting to re-enter your weekly request for payment.

What is a waiting period?

The first eligible weekly request for payment you file will be a waiting period week. **You will not be paid for the waiting period week, but you must file a request for payment for that week.** Everyone serves one waiting week per benefit year.

You must still meet all eligibility requirements for the non-paid waiting week.

What questions will I be asked when I file a weekly request for payment?

Below are questions you may be asked when filing your weekly request for payment.

1. During the week you are requesting payment for, did you work for an employer or in self-employment?
 - You must report **all hours worked (to the nearest tenth of an hour) regardless of your employer’s work week or pay period**, including self-employment (after expenses), even if you have not been paid.
 - Report **gross wages, including tips (in dollars and cents), before taxes and any other deductions**. Gross wages are calculated by multiplying your hourly rate of pay times the number of hours you worked during the claim week.
 - Report the reasonable cash value of goods (lodging, food, bill paid, etc.) received instead of wages.
 - Earnings that must be reported also include things such as fees received by directors of a corporation, fees or payments paid to public officials or bonuses.
 - If you worked but had no earnings, was it because you attempted commission sales, were self-employed, or have other unpaid hours? (See page 9.)
 - If you worked for more than one employer, please combine your hours and earnings for all employers before filing your weekly request for payment. (See the example below.)
 - If you are no longer working for your employer, please see page 5 regarding reopening your unemployment claim.

Example:

| Employer | Total Hours Worked | Hourly Rate | Total Wages |
|---------------|--------------------|-------------|-----------------|
| ABC Inc. | 4.0 | \$6.00 | \$24.00 |
| XYZ Inc. | 7.9 | \$7.00 | \$55.30 |
| Totals | 11.9* | | \$79.30* |

*Report these totals

When reporting your hours worked and gross wages through the IVR system, you may speak your responses or enter them through the touch-tone keypad. If you are using a keypad, please press the star key (*) as your decimal point and end your entry with the pound sign (#). For example, 11.9 hours would be 11*9# and \$79.30 would be 79*30#.

Failure to correctly report your hours and earnings may result in an overpayment and a penalty. Your reported work and earnings are verified with your employer.

2. Did you, or will you, receive any of the following for the week you are requesting payment? They are deductible from your unemployment benefits. (See page 9.)
 - Holiday pay
 - Vacation pay or annual leave
 - Sick pay
 - Severance pay/wages in lieu of notice

3. Will you begin receiving pension, disability payments or workers' compensation, or did the amount previously reported change? (See page 10)
4. Are you on call to return to work for your regular employer? (See work registration exemption below and page 8)
5. Did you make at least two contacts for employment as instructed? (See below) If yes, please have the following information available before submitting your weekly request for payment.
 - Name of business contacted
 - Date the contact was made
 - Phone number and address of the business
 - Name of the hiring authority you contacted at that business
 - Method of contact (in person, online)
 - **Your reported work search contacts are verified with employers**
6. Were you physically able to work? (See page 8)
7. Were you available to accept a job if offered? (See page 8)
8. Did you refuse any offer of work or referral to a job? (See page 10)
9. Did you begin school or did your class schedule change during the claim week? (See page 9)

REQUIREMENTS FOR WEEKLY BENEFIT PAYMENTS

Do I have to register for work with the South Dakota Department of Labor and Regulation, or my designated state workforce agency?

All individuals filing for unemployment insurance benefits are required to be registered for work and to seek work **unless**:

- You have a definite recall date to return to full-time work with an employer who paid 50 percent or more of your base period wages and, due to weather-related seasonal factors, work is not available in your primary base-period occupation and other suitable work is not available, **or**
- You are a member in good standing with a referring union through which you normally obtain employment, **or**
- You will be recalled to full-time work within 10 consecutive weeks by an employer.

In-state claimants are automatically registered with SDWORKS when their unemployment claim was filed. Out-of-state claimants are required to register with their designated state workforce agency, job service, workforce development, etc., and to submit proof of registration within 14 days of claim filing.

Do I have to look for work?

You must actively seek work while receiving benefits, starting with the week in which you file your claim, unless we instruct you otherwise. An active work search includes the following:

- Making a minimum of two job contacts in each week you are requesting benefits. This includes the non-paid waiting week. The minimum number of job contacts required may be increased depending on the status of your claim.
- Contacts should be made using a method customarily required by the employer. Contacts by telephone are not valid.
- Your work search must be a reasonable and honest effort to find work. Contacts with close relatives and spouses are not considered reasonable.
- You must be willing to accept the going wage in your area for the job or occupation in which you have the most experience or training. If there is no work or there are limited opportunities for you in your usual job, then you must be available for work you are capable of doing at the going wage for that type of work.
- Repeat job contacts with the same employer are not acceptable unless 30 calendar days have elapsed between the job contacts.

Is there assistance to help me find employment?

You are required to report to **all** DLR services, such as Job Search Assistance Program (JSAP), Re-Employment Services (RES), Re-Employment and Eligibility Assessment (REA), and Re-Employment Intensive Services (RIS) as scheduled. If you fail to attend, your benefits will stop until you report to your local Department of Labor and Regulation office and reopen your claim. Weekly requests for payment filed after a missed scheduled service or other request may not be paid.

If you are unable to report for your JSAP, RES, REA, RIS or other request, notify your local Department of Labor and Regulation

office before the date of your interview or appointment to reschedule.

Can I use employment agencies as job contacts?

Contacting your local Department of Labor and Regulation office or other employment agencies cannot be used to satisfy the requirement of making two job contacts each week.

What if I leave the area to look for work?

If your job seeking requires you to be out of the area for more than two weeks, you must reopen your claim immediately at www.sd.uicclaims.com or by calling 605.626.3179 with a mailing address where you are currently seeking employment. If you do not reopen, you may lose benefits. You must register with the designated state workforce agency serving the area, such as the labor office, job service, workforce development, etc.

What if I am on recall?

If we have verified with your employer that you will return to work full-time (and you meet the work registration exemption criteria described on page 7), you will not be required to make two job contacts each week. You will be required to notify us immediately of any change in your recall status. If you decide that you will not be returning to work for that employer, you must reopen your claim and begin making two job contacts. If you do not return to work by the date your employer provided us, and you are still going to be called back to work, your employer will be responsible for contacting us to extend your recall date.

What kind of record must I keep of my work search?

You will be required to provide information on job contacts when you file your weekly request for payment. Keep records of your contacts with enough details so they can be verified. If you are applying for jobs on the internet, it is helpful to keep your sent and received emails from the employer and any confirmation numbers that are received. The Employer Contact forms on pages 16 - 19 are available for your convenience to keep a record of your job contacts. The Employer Contacts form can also be found online at dlr.sd.gov/ui/uiforms.aspx to print additional pages.

Your work search contacts will be verified. Any individual who willfully or fraudulently misrepresents any fact concerning their work search will be denied benefits for four weeks for each week of misrepresentation. Also, any individual who falsifies job contacts, or dates of contacts, will be subject to a penalty of 50 percent of the amount of benefits obtained by fraud for the first offense and a 100 percent penalty for each subsequent offense.

What does it mean to be able to work?

To be able to work you must be:

- Physically and mentally able to work in your usual occupation or in other work for which you are reasonably qualified.
- Able to work the majority of the week (more than three days).

What does it mean to be available for work?

Even if you are able to work, you are not considered a member of the labor force unless you are also “willing” to work.

- You must be available for full-time work. There may be an exception for an individual who earned base period wages working part-time.
- There must be no personal reasons preventing you from accepting a job immediately (caring for children, lack of transportation, vacation, etc.).
- You must not place restrictions on the work you will accept, making the job you want practically non-existent.
- You must be willing to accept work you are qualified by education and experience to perform.
- If you work in an occupation where different shifts are common, you must be available to work any shift unless you have compelling personal reasons for not working a particular shift.
- You must accept the going wage in your area. You cannot hold out for your last wage.

Your availability is questioned if you travel, are on vacation, care for relatives or others, are on a leave of absence, or are attending school or college.

What happens if I become incarcerated/imprisoned?

You will be required to notify Customer Service at 605.626.2452 if you become incarcerated. Payments will cease until you notify Customer Service upon your release. Failure to notify Customer Service could result in overpayments and penalties.

Can I go to school and still be eligible?

If you are going to school and meet all the necessary eligibility requirements, you may be eligible for unemployment benefits. If you are receiving training or attending classes, this information must be reported. The information will be reviewed to determine if you are eligible for unemployment benefits.

If you request, and are allowed, Approved Training status, you will not be required to look for work. Approved Training status is usually granted if it has been determined that you need further training to re-enter the job market. This status does not extend the length of unemployment benefits.

You will still be required to file your weekly request for payment in order to receive payments.

DEDUCTIONS FROM BENEFITS

Can I work part of the week and still be eligible for benefits?

You may be eligible for partial unemployment benefits if you continue to work. In order to be eligible for partial benefits you must report your hours and earnings for the calendar week which you are filing for and **make an active search for work**. Earnings will reduce your benefits. Seventy-five percent of earnings over \$25 will be deducted from your weekly benefit amount.

- You will not be eligible for benefits if your gross earnings are equal to or more than your weekly benefit amount.
- You will not be eligible for benefits if you worked 40 hours or more, regardless of the amount of earnings.

What if I am self-employed or working on a commission basis?

You must accurately report any hours and earnings (after reasonable expenses) from self-employment. Self-employed means earning income directly from your own business, trade, profession or service instead of wages or earnings from an employer. Net income after **reasonable business** expenses will be deducted from your benefits. Expenses must be reported within the week they are incurred. You may request a form to assist you with your calculations by contacting Customer Service at 605.626.2452. The fact that your business has no **taxable** income, or even a loss, does not mean hours or earnings do not need to be reported. For help, call Customer Service at 605.626.2452.

If you do sales work on a commission basis, the hours you work each week, as well as your gross earnings, must be reported. If you work full time (40 or more hours), or earn more than your weekly benefit amount, you will not be eligible for benefits for that week.

What if my job ends?

If at any time during your benefit year you return to work and then separate from a job, you **must** either file on the Internet at www.sd.uiclaims.com or call the Claims Call Center at 605.626.3179 immediately to reopen your claim. Your eligibility for benefits will be based on the reason you separated from the employment.

You must reopen your claim after any length of employment ends, even one day or less.

What types of payments are deductible from my benefits?

Payments you receive are deducted dollar-for-dollar from your benefits based on your normal hours worked in a week. Deductible payments must be reported on your weekly request for payment. If you received a lump sum payment prior to establishing your claim you must report it to the Department. Deductible payments include, but are not limited to:

- Vacation pay
- Severance pay
- Annual leave pay
- Termination pay
- Holiday pay
- Dismissal pay
- Wages in lieu of notice
- Back pay
- Sick leave pay
- Temporary partial disability

You will be notified of the timeframe you are ineligible for benefits due to deductible payments. If the payment is less than your weekly benefit amount, you will receive a partial payment. If you stop filing weekly requests for payment during this time and it has been longer than four weeks in length since you last filed, you will need to reopen your unemployment claim to begin filing weekly requests for payment. (See page 5)

Are pension benefits deductible?

Pensions, annuities and retirement payments, including lump sum payments, are deductible if earned with a **base period** (see page 3) employer. You must provide detailed information about your retirement plan, including the name and address of the plan administrator, as well as the portion that the employer contributed to the plan. Your contributions to the plan are not deductible. **Any change in your pension, annuity or retirement should be reported to Customer Service at 605.626.2452 immediately.**

Are Social Security benefits deductible?

Primary Social Security retirement benefits based on your earnings are not deductible from unemployment insurance.

Are disability payments deductible?

Military-service-connected disability payments are not deductible from your benefits. Temporary partial workers' compensation is deductible from your benefits.

This description of deductible items is not intended to cover all situations. For help, contact Customer Service at 605.626.2452. Failure to report a deductible item or reporting it improperly may result in an overpayment which you will be required to repay.

DISQUALIFYING CIRCUMSTANCES

What if I quit or was discharged from a job?

If you voluntarily quit your job without good cause, or were discharged from work due to misconduct, you may be disqualified from receiving unemployment benefits. If you have not reported this separation, you will need to reopen your claim immediately (See page 5).

Quitting a job or being discharged may be disqualifying.

What happens if I refuse a job or referral to a job?

If you refuse a job offer, or referral to a job, you must notify Customer Service by calling 605.626.2452 to report the job information and the reason(s) for the refusal. If it is determined you did not have good cause to refuse the job offer or job referral, you may be disqualified from receiving unemployment benefits.

What if I am disqualified?

If you are disqualified, you will be denied benefits until you have at least six calendar weeks of insured employment during your current benefit year. You must earn wages of at least your weekly benefit amount in each of those weeks to re-qualify for benefits.

Appealing Disqualifications and Denials

What if I disagree with a disqualification or denial?

If you disagree with a determination, you have the right to appeal the determination. **The appeal must be in writing.** You may file your written appeal by mailing the appeal letter to: Appeal Section, UI Division, P.O. Box 4730, Aberdeen, SD 57402-4730. Or you may fax the appeal to 605.626.2322. Your appeal must be **filed within 15 days** after the date the determination was mailed to you. Be sure to include your **Social Security number** and explain the reason for your appeal.

Employers also have a right to appeal if they disagree with the determination. If an employer appeals and the determination is reversed, it may result in an overpayment that you will be required to repay. If an overpayment occurs, you will be notified in writing of the overpayment and informed of your appeal rights.

If you appeal a determination, you should continue to file your weekly requests for payment. If the decision is in your favor you will receive payment for the weeks you file requests for payment.

OVERPAYMENTS

What if I am overpaid benefits?

Unemployment insurance overpayments must be repaid unless you meet the conditions that allow repayment to be waived. If

you were at fault in causing the overpayment, interest of 12 percent per year will accrue beginning with the date of the overpayment determination. If you were not at fault, interest will not accrue until six months after the determination date. Failure to repay your overpayment may result in recovery of the overpayment through civil action and garnishment of your wages. You may request a repayment agreement to repay the amount you owe.

Can I still file for benefits if I have an overpayment?

You may continue to file your weekly requests for payment. Any future benefits for which you would otherwise be eligible for, may be used to offset or reduce the amount of your overpayment.

PENALTIES FOR MISREPRESENTATION (Fraud)

What if I misrepresent facts, make false statements, fail to disclose information or fail to report changes?

If you committed fraud to secure or increase benefits, a penalty of 50 percent of the amount of benefits obtained by fraud is applied for the first offense and a 100 percent penalty is applied for each subsequent offense. A four week administrative penalty shall be imposed for each week that an individual willfully or fraudulently misrepresents a fact to secure or increase benefits.

An individual who commits fraud will be required to pay the unemployment insurance benefits back.

- You will be required to pay interest of 12 percent per year. The interest accrues immediately.
- You may be denied future benefits up to 52 weeks.
- You may be convicted of a misdemeanor and imprisoned up to one year in the county jail, or fined up to \$2,000, or both.
- You may be convicted of a felony if you unlawfully obtained more than \$200, and imprisoned up to two years in the state penitentiary, or fined up to \$4,000, or both.

What if I have an administrative penalty?

In order to satisfy the penalty you should continue to file your weekly requests for payment. All eligibility requirements must be met. You will not be paid for these weeks, but will receive credit towards the penalty.

TRADE ADJUSTMENT ASSISTANCE

Trade Adjustment Assistance (TAA) is available to workers who lose their jobs as a result of increased imports.

Workers whose employment is adversely affected by increased imports may file a petition with the Office of Trade Adjustment Assistance to establish eligibility. A petition must be filed within one year from the date the worker is laid off from a job. Petitions may be filed by a group of three or more workers, their union or an authorized representative. Forms on which to file a petition for TAA can be obtained by writing the South Dakota Department of Labor and Regulation, UI Division, P.O. Box 4730, Aberdeen, SD 57402-4730 or by calling 605.626.2452.

If the petition for TAA is certified, workers may be eligible for additional weekly benefit payments, training, job search assistance, relocation allowances and other re-employment services. Contact your local Department of Labor and Regulation office for information.

QUALITY CONTROL PROGRAM

Individuals who have filed a claim for unemployment insurance benefits may be randomly selected for a Quality Control program audit. Each claim will be subjected to an intensive verification of benefit eligibility. The audit will involve a complete review of the claim, an interview with the individual, and verifications with other parties. Failure to cooperate with the Quality Control program audit may result in loss of benefits.

INFORMATION WE MAY SHARE

The Deficit Reduction Act of 1984 (Public Law 98-369) requires that certain state agencies maintain an income and eligibility verification system. This system is used to verify eligibility for Supplemental Nutrition Assistance Program, Aid to Families with Dependent Children or Medicaid; and potential liability for child support payments. State agencies administering these programs may verify your eligibility for benefits (or child support obligations) by using information contained in Department of Labor and Regulation records. Information used would be your past wages, as reported by former employers, and your eligibility for or receipt of unemployment benefits.

NOTICE ABOUT INCOME TAX

Your unemployment insurance benefits are subject to federal income tax law. The Internal Revenue Service will furnish complete information on how to report and compute the tax.

You do have the option of having tax deducted from your benefit payments. The rate of deduction is 10 percent per week. If you have questions, call Customer Service at 605.626.2452.

It may be necessary for you to make estimated tax payments. For more information on when you should make estimated tax payments, see *IRS Publication 505, Tax Withholding and Estimated Tax*, or the instructions for Form 1040-ES.

You will be furnished a statement, Form 1099-G, at the end of the year in which benefits were paid to you. The Internal Revenue Service will be given the same information.

EQUAL OPPORTUNITY EMPLOYMENT RIGHTS

It is against the law for this recipient of federal financial assistance (the Department of Labor and Regulation) to discriminate on the following bases against any individual in the United States: race, color, religion, sex, national origin, age, disability, political affiliation or belief; and against any beneficiary of programs financially assisted under Title 1 of the Workforce Investment Act of 1998 (WIA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States or his or her participation in any WIA Title 1 financially assisted program or activity. The recipient must not discriminate in any of the following areas:

- Deciding who will be admitted, or have access, to any WIA Title 1 financially assisted program or activity.
- Providing opportunities in, or treating any person with regard to, such a program or activity.
- Making employment decisions in the administration of, or in connection with, such a program or activity.

What do I do if I believe I have experienced discrimination?

If you think you have been subjected to discrimination under a WIA Title 1 financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either of the offices listed below:

Department of Labor and Regulation
Equal Opportunity Officer
123 W. Missouri Ave.
Pierre, SD 57501
Tel: 605.773.3095
derek.gustafson@state.sd.us

After you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (CRC) (see address below). If the recipient does not give you a written Notice of Final Action within 90 days from the day on which you filed your complaint, you do not have to wait for the recipient to issue that notice before filing a complaint with the CRC.

Director
U.S. Department of Labor
Civil Rights Center
200 Constitution Avenue NW
Room N-4123
Washington, DC 20210

However, you must file your CRC complaint within 30 days of the 90-day deadline. (In other words, you must file within 120 days after the day on which you filed your complaint with the recipient). If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with the CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

WARNING NOTICE

It is a crime to misrepresent facts, make false statements or fail to disclose facts to obtain or increase unemployment insurance benefits, or fail to report any change in circumstances that would affect your eligibility for benefits. SDCL 61-6-38.

South Dakota uses a variety of detection techniques to detect fraudulent claims, including matching programs to verify information you provide. Your earnings are subject to matching with employers' quarterly report of wages. Errors may result in overpayment which you will be required to repay. If you have questions on how to report earnings, see page 6 or call Customer Service at 605.626.2452.

Offenders may be prosecuted, resulting in:

- A **fine up to \$4,000** and/or
- **Imprisonment for up to two years** in the state penitentiary.

Overpayments will be recovered by these methods (see page 11).

- Voluntary repayment.
- Civil action.
- Distress warrant (served by sheriff).

Interest will be charged on all overpayments not repaid in six months. Interest starts immediately on fault overpayments.

You must:

- Report all work and earnings.
- Report all factors affecting availability/eligibility (self-employment, illness or disability, vacations or confinement).

The information in this book is a summary and all decisions will be based on legal interpretations of the state's unemployment insurance laws.

If you have questions after studying this book, call or write the South Dakota Department of Labor and Regulation.

If you want further information on South Dakota's unemployment insurance or other Department of Labor and Regulation programs, visit www.sdjobs.org.

GLOSSARY OF TERMS

Adjudication — Process used to determine whether a claimant is eligible to receive unemployment insurance benefits.

Administrative Penalty — Imposed when a claimant knowingly failed to disclose facts or provided incorrect information to obtain, or increase, benefits.

Alternate Base Period — A different period of wages to consider when calculating a claimant's monetary eligibility for benefits. This is used when an individual has suffered a work-related injury and does not qualify using the current base period. The claimant must apply for unemployment benefits within 24 months of when the work-related injury occurred.

Alternative Base Period — A different period of wages to consider when calculating a claimant's monetary eligibility for benefits. South Dakota's alternative base period is the last four completed calendar quarters preceding when an individual applies for unemployment benefits.

Appeal — Formal request by a claimant or employer to have a decision, determination or notice reconsidered by the next higher level of authority.

Benefit Year — The 52-week period beginning with the week in which an application for benefits was made.

Benefit Year End (BYE) — The ending date of a claim. BYE dates are always on a Saturday. The BYE date can be found on the monetary determination of benefits notice that a claimant receives after applying for unemployment benefits.

Civil Action — A lawsuit between two or more individuals or corporations involved in a dispute and usually seeking a judgment awarding monetary damages.

Claims Call Center — Part of the Unemployment Insurance Benefit Section that processes initial and reopened unemployment claims. The number for the Claims Call Center is 605.626.3179.

Claim Week — A period of seven consecutive days beginning at 12 Midnight on Sunday and ending at 11:59 p.m. the following Saturday.

Combined Wage Claim — A claim established using wages from South Dakota and one or more states.

Commencing — Starting/beginning.

Covered Wages — Wages an employer pays to an employee that are subject to unemployment taxes.

Discharge — To terminate an individual from employment.

Effective Date — Start date of a new claim for unemployment benefits. This date will always be the Sunday date of the week the claimant applied for unemployment benefits. An earlier effective date can be requested and may be allowed if there is good cause for backdating the claim.

Electronic Correspondence — Electronic mailbox that claimants can choose to receive their unemployment insurance correspondence through instead of paper mail. Sign up online at www.sd.uicclaims.com.

Excessive Earnings — Gross earnings during a claim week that meet or exceed a claimant's weekly benefit amount (WBA).

Fraud — Wrongful or criminal deception intended to result in financial or personal gain.

Full-time Work — Work that is 40 or more hours per week.

Garnishment of Wages — A court order to withhold a certain amount of your wages as repayment for debt.

Initial Claim — A newly filed claim which establishes a benefit year.

Issue — A situation or potential situation that prevents an individual from being eligible for benefits.

Interactive Voice Response (IVR) — The automated telephone system used to file a weekly request for payment. The number to call to file a weekly request for payment is 605.626.3212.

Insufficient Wage Credits — Defines a claim that does not have enough covered wages during the specified base period to be eligible.

Job Contacts — Contacts with employers to submit an application for employment. Method of contact is in person unless the employer requires application by some other method, such as Internet.

Maximum Benefit Amount (MBA) — The maximum amount of benefits a claimant is eligible to receive during his or her benefit year. This amount is listed on the monetary determination of benefits notice.

Misconduct — Failure to obey orders, rules or instructions. Substantial disregard of the employer's interests or employee's duties and obligations to the employer. Willful or wanton disregard of employer's interest due to deliberate violations or disregard of standards of behavior the employer has a right to expect. Recurring carelessness or negligence.

Misrepresentation — Deliberately making an untrue statement or withholding information needed to make a proper determination.

Monetary Determination — A written determination of monetary eligibility of benefits based on covered wages earned by the claimant in the base period. This monetary determination also includes the weekly benefit amount, maximum benefit amount, effective date and benefit year end date. Please keep your copy of this document.

Monetary Penalty — A fine issued that penalizes a claimant who profited from a fraudulent action. A penalty of 50 percent of the amount of benefits obtained by fraud is applied for the first offense and a 100 percent penalty is applied for each subsequent offense.

Monetary Eligibility — Eligibility for benefits based on covered wages during the base period. This is the first step of the unemployment process. A determination will also need to be made by the Benefit Section based on the reason the claimant is no longer employed.

Non-Monetary Determination — A written determination of eligibility regarding a specific issue or circumstance other than monetary eligibility that may affect a claimant's eligibility for benefits.

Notice of Claim — The notice an employer receives after a claimant has applied for unemployment benefits. This notice allows the employer to provide the Benefit Section with a reason a claimant is no longer employed. Under most circumstances this notice is mailed the business day directly after the day an application for benefits was made. An employer is then given a 15-day period of time to return the notice to the Benefit Section.

Offset — An amount deducted from benefits to repay an amount owed to the previous overpayment of benefits.

Overpayment — A payment of benefits that a claimant was not entitled to receive.

Partial Benefits — The amount of unemployment benefits a claimant could receive if he/she continues to work while filing for unemployment benefits.

Personal Identification Number (PIN) — A four-digit number used for identification and security purposes along with the claimant's Social Security number, used when filing through the IVR system.

Re-Employment Services (RES) — Department of Labor and Regulation programs designed to assist claimants return to work as quickly as possible. Services may include a Job Search Assistance Program (JSAP), an unemployment eligibility assessment and a customized re-employment plan. Failure to participate in the services may result in a denial of benefits.

Register for Work — Unemployment benefit claimants will be required to register for work through SDWORKS or their designated state workforce agency, unless exempt.

Regular Base Period — Consists of the first four calendar quarters of the last five completed calendar quarters preceding when an application for benefits is made.

SDWORKS — The state of South Dakota's online employment database. The website address is: www.sdjobs.org.

Separation — The reason the claimant is no longer working. This can be due to being discharged (fired/suspended), voluntarily quitting or being laid off due to lack of work.

Severance Pay — Payment given to an employee by an employer after the employee separates from employment.

Suitable Work — Work for which the claimant is qualified or has experience in, and for which the wages offered are the going rate for work in the claimant's area.

Union Attached — Status of an active referring union member who secures employment through a union hiring hall. The current status of the union member will be verified by the Benefit Section. Members who have been verified to be active union members will be exempt from searching for work.

Voluntary Quit — Termination of employment by the employee.

Wages in Lieu of Notice — Payments made to an employee when the employee is to be laid off, but the employer cannot or will not give the customary notice period.

Waiting Week — The first eligible week of an initial claim. In South Dakota, the waiting week is non-paid, but claimants are still required to file a weekly request for payment and make job contacts (unless exempt).

Weekly Benefit Amount (WBA) — Maximum amount of benefits a claimant is eligible to receive per week. A claimant who is currently working and has gross earnings less than his or her WBA will only receive partial benefits.

Work Search — A claimant is required to make a minimum of two job contacts per claim week. Please be sure to follow the requirements regarding valid contacts and accepted method of contact.

If you have questions this book does not answer, please contact Customer Service at 605.626.2452.

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION
WORKFORCE SERVICES
sdjobs.org

**EMPLOYER CONTACTS
JOB SEARCH TRACKING SHEET**

All reasonable effort should be made to complete an application or submit a resume. If more pages are needed, please copy this page or go online to dlr.sd.gov to print additional pages.

JOB SEEKER NAME: _____

| DATE | NAME OF BUSINESS | BUSINESS ADDRESS, TELEPHONE, AND/OR EMAIL OR WEBSITE IF APPLICABLE | CONTACT METHOD | NAME OF PERSON CONTACTED | JOB APPLIED FOR |
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UNEMPLOYMENT INSURANCE CHECKLIST

- File your claim for unemployment benefits through the Internet at sd.uiclaims.com or by calling 605.626.3179, Monday through Friday from 8:00 a.m. to 4:20 p.m. (CT).
- Review and respond to any mail that is sent to you from the Department of Labor and Regulation.
- Review your monetary determination notice to ensure the information is correct (for new/initial claims only).
- Read your Facts About Unemployment Insurance Benefits claimant handbook.
- Search for work each week that you make a weekly request for payment, including the non-paid waiting week, unless we instruct you otherwise.
- Register for work with the designated workforce agency in the state in which you reside if you are required to search for work. South Dakota residents are automatically registered with SDWORKS.
- Be able, available and willing to accept work for each week that you file a request for payment.
- File your weekly request for payment via the internet at www.sd.uiclaims.com or by calling 605.626.3212.
- Report your hours and gross earnings in the week that you earned them, including part-time or temporary employment.
- Report all job separations.
- Stop filing weekly requests for payment once you begin full-time employment.
- Contact Customer Service at 605.626.2452, Monday through Friday from 8:00 a.m. to 5:00 p.m. (CT) with any questions.

To avoid error and ensure proper payment of benefits, read all the information provided to you. You are legally responsible to know the rules. Failure to follow the rules can have serious consequences.



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Auxiliary aids and services are available upon request to individuals with disabilities. State and federal laws require the Department of Labor and Regulation to provide services to all qualified persons without regard to race, color, creed, religion, age, sex, ancestry, political affiliation or belief, national origin or disability.