

DECLARATION OF EMERGENCY

Louisiana Workforce Commission Office of Unemployment Insurance Administration

Excepted Federal Employees Performing Services During Government Shutdown (LAC 40:IV.381)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address the qualifications for receipt of unemployment benefits for federal employees who continue to report for work without timely payment during a government shutdown.

This Emergency Rule is necessary to allow the Louisiana Workforce Commission to effectively administer the unemployment program as it pertains to excepted federal workers that are not being promptly paid, but continue to report for work during a government shutdown affecting the employee's government agency. A delay in promulgating this Rule would have an adverse impact on the financial welfare of affected individuals and their families. These excepted federal employees are uniquely positioned such that they are not able and available to search for or accept other employment, but cannot meet their financial obligations based upon their employment. The temporary suspension of work search and availability requirements for these employees will provide a small measure of support to cover the basic needs of the workers until such time as the workers are compensated for their services. The unemployment amounts paid to the workers will result in overpayments that LWC will collect once the workers are compensated by the federal government for their services. La. R.S. 23:1472(19)(a)(iii) allows the administrator to prescribe regulations applicable to unemployed individuals and to make distinctions in the procedures affecting partially unemployed individuals attached to their regular jobs. It is imperative that the Louisiana Workforce Commission proceed expeditiously with this Rule because the precarious position of these excepted federal workers is an imminent peril to public health, safety, and welfare that requires immediate action on operations, implementation, and use of funds to provide benefits. Failure to adopt this Rule on an emergency basis may prohibit excepted federal employees, who continue to work to secure the safety of the general public, the basic support needed to provide for themselves and their families.

This declaration of emergency is effective January 25, 2019, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until a continuing budget resolution that provides funding for retroactive payment of the excepted federal employees has been passed by the federal government, whichever occurs first.

**Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Chapter 3. Employment Security Law**

§381. Excepted Federal Employees Performing Services During Government Shutdown

A. Federal workers performing services without prompt payment of wages during a government shutdown, also referred to as excepted federal employees, shall be considered as partially unemployed.

B. Wages earned by excepted federal workers performing services shall be considered as wages paid for the purpose of claiming weekly benefit amounts only once wages are actually paid. Those federal wages that are unpaid will not be reported or deducted from the weekly benefit amount when claimed, but must be reported when paid and will result in a non-fraud overpayment.

C. Any amounts earned through other employment must be reported in the week earned, regardless of actual payment date.

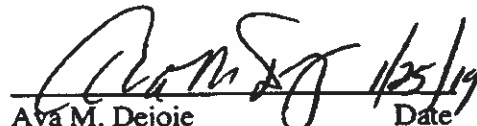
D. For the purpose of availability and reporting requirements under R.S. 23:1601(3) and R.S. 23:1600(2) and (3), the administrator shall consider job attachment to federal employment by excepted federal workers that continue to provide services as good cause for not being available for work, registering for work, applying for work, accepting suitable work, or conducting an active job search.

E. Excepted federal employees that are required to continue to provide services without payment must provide proof of this status to the administrator's satisfaction.

F. This Emergency Rule is effective for the week ending January 26, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1591, La. R.S. 23:1472(19)(a)(iii), and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 45:


Ava M. Dejoie Date 1/25/19
Secretary