

## **SELF-EMPLOYMENT ASSISTANCE PROGRAM RULES**

January 5, 2015.

### **RULE 32. UNEMPLOYMENT INSURANCE SELF-EMPLOYMENT ASSISTANCE PROGRAM.**

#### **1. SCOPE AND PURPOSE.**

This rule shall govern the administration of the self-employment assistance program. The self-employment assistance program is intended to encourage and enable unemployed workers to establish their own businesses.

#### **2. AUTHORITY TO ADOPT RULES.**

This rule is adopted pursuant to 21 V.S.A. § 1340a.

#### **3. DEFINITIONS.**

As used in this rule:

(a) “Allowable business activity” means:

(1) the proposed business shall have its principal place of business in Vermont;

(2) the proposed business, when established, shall meet all legal requirements, including those involving insurance, licenses, taxes, and zoning; and

(3) the proposed business may be a sole proprietorship, partnership, corporation, franchise, or pre-existing business provided that the applicant has both financial investment and decision-making authority in the business.

“Allowable business activity” shall not include businesses involving gambling activities, pyramid selling, or the speculative purchase and sale of real estate, although real estate businesses involving construction and renovation are permitted.

(b) “Approved training” means seminars, workshops, and training approved by the Commissioner for purposes of providing assistance to the self-employment assistance program participants.

(c) “Commissioner” means the Commissioner of the Department of Labor or designee.

(d) “Department” means the Department of labor.

(e) “Establishing a business” means organizing the production, marketing, and sale of products or services. This includes enterprises operated with the intention of generating income for the owners if organized as a legal not-for-profit venture.

(f) “Full-time basis” means at least 35 hours per week.

(g) “Self-employment assistance activities” means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(h) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the unemployment compensation trust fund, to an individual who meets the requirements of, and has been accepted into, the self-employment assistance program.

(i) “Self-employment assistance program” means a program under which an individual who meets the requirements of the program is eligible to receive an allowance in lieu of regular unemployment benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(j) “Worker profiling system” means a system established by the Department that attempts to predict the likelihood that an individual will exhaust his or her unemployment benefits.

#### **4. APPLICATION.**

(a) An individual shall apply to be accepted into the self-employment assistance program. The application shall be sent to the Commissioner and address the eligibility requirements outlined in part 5 of this rule.

(b) Applications shall be reviewed by the Commissioner to ensure that the applicant meets all of the eligibility requirements.

(c) During the interval between filing an application and receiving notification of acceptance or non-acceptance, an applicant shall continue to file for and meet the eligibility requirements for regular benefits.

(d) The application shall be submitted in a manner approved by the Department.

#### **5. ELIGIBILITY.**

To be eligible for acceptance into the self-employment assistance program, an applicant must meet the following criteria:

(a) be a resident of Vermont;

(b) have been identified as likely to exhaust regular benefits through the Department’s worker profiling system;

(c) have completed and submitted to the Department an application form containing information prescribed by the Commissioner.

(d) have attended an orientation to the self-employment assistance program;

(e) be willing and able to work full-time at self-employment assistance activities; and

(f) be proposing to enter a type of business which is an allowable business activity as defined in this rule.

## **6. ENROLLMENT IN PROGRAM.**

(a) Enrollment into the self-employment assistance program shall be monitored by the Department and shall not exceed 35 individuals at any one time.

(b) Applicants who meet the eligibility requirements but cannot be accepted because the program is at its 35 participant limit shall be given written notification of deferment. The Commissioner will monitor the program for openings and notify deferred claimants of program openings. A deferred claimant must be determined by the Commissioner to have a reasonable expectation that they will be entitled to at least 13 weeks of remaining benefits prior to being considered for participation in the program.

(c) Applicants who are deferred shall be placed on a waiting list in the order in which they applied, with the applicants who applied first and who are still on the waiting list being given the first openings for acceptance into the program.

(d) Applicants must receive notification of acceptance into the program prior to submitting a claim for a self-employment assistance allowance. Notice must be given within a reasonable time frame. Participation shall begin with the week following notification. Participants shall begin filing a weekly self-employment assistance allowance claim form the week following notification of acceptance into the program.

(e) The self-employment assistance allowance shall not exceed the maximum amount of benefits established by 21 V.S.A. § 1340 with respect to any benefit year.

## **7. CLAIMS FOR SELF-EMPLOYMENT ASSISTANCE ALLOWANCE.**

(a) To receive a self-employment assistance allowance, program participants shall:

(1) Be actively engaged on a full-time basis in self-employment assistance activities; and

(2) File a weekly self-employment assistance allowance claim form certifying information prescribed by the Commissioner.

(b) The self-employment assistance allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular unemployment benefits, except:

(1) the requirements of 21 V.S.A. § 1343, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual; and

(2) the individual shall not be considered to be self-employed under 21 V.S.A. § 1301(24).

(c) An individual who meets the requirements of this section shall be considered to be unemployed under 21 V.S.A. § 1338.

(d) An individual who fails to participate in self-employment assistance activities or who fails to actively engage in a full-time basis in activities, including training, related to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week the failure occurs.

## **8. TERMINATION FROM PROGRAM.**

(a) **Voluntary termination.** Participation in the self-employment assistance program is voluntary and may be terminated at the request of the individual claimant at any time. To withdraw from the program the individual shall contact the Department. Voluntary termination shall be effective on the Sunday of the week following the claim week on which voluntary termination is elected.

(b) **Termination by Commissioner.** A participant may be removed from the program if found to be in non-compliance with the program participation requirements contained in this rule or if the participant is found to have violated the misrepresentation provisions of 21 V.S.A. § 1347. The Department shall notify the participant of his or her termination from the program and the termination shall take effect immediately upon notification.

(c) **Continued eligibility for regular unemployment benefits.** Whether an individual who voluntarily withdraws or is terminated from the program is eligible for regular unemployment benefits shall be determined in accordance with 21 V.S.A. chapter 17.

(d) **Suspension of program.** The Commissioner may suspend the self-employment assistance program with the approval of the Secretary of Administration and notice to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs in the event the program presents unintended adverse consequences to the unemployment trust fund.