

SECRETARY OF STATE

2014 JUN 26 PM 4:53

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**AGENCY RECEIPT**

**NOTICE OF SUBSTANTIVE POLICY STATEMENT**

**1.** **Agency Name:** Department of Economic Security

**2.** **Title of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:**

Guidelines for Assessing a Claimant's Efforts to Find Work, A.A.C. R6-3-52160. The Substantive Policy Statement number is 3-52P-160.

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NOTICE OF SUBSTANTIVE POLICY STATEMENT

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ARIZONA DEPARTMENT OF ECONOMIC SECURITY

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**1. Subject of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:**

This policy provides Unemployment Insurance adjudicators with guidelines for assessing whether a claimant is meeting the “followed a course of action which is reasonably designed to result in his prompt reemployment in suitable work” requirement contained in A.A.C. R6-3-52160(A). The Substantive Policy Statement number is 3-52P-160.

**2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**

The substantive policy was issued and will become effective upon filing with the Office of the Secretary of State.

**3. Summary of the contents of the substantive policy statement:**

This substantive policy statement is intended to provide guidance to unemployment insurance adjudicators when assessing whether a claimant is following a course of action reasonably designed to result in the claimant’s prompt reemployment in suitable work, as required by A.A.C. R6-3-52160. The statement provides guidance for determining when the claimant is definitely not meeting this requirement; evaluating the reasonableness of the claimant’s work search efforts when the claimant’s methods for seeking work are other than the conventional methods listed as examples in the subject rule; and documenting a warning to the claimant, when the overall pattern of seeking work indicates an attachment to the workforce, but recent efforts indicate a need to increase or expand those efforts.

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4. **A statement as to whether the substantive policy statement is a new statement or a revision:**

This is a revised substantive policy statement.

5. **The name and the address of the person to whom questions and comments about the substantive policy statement may be directed:**

**Name:** Rameshwar Adhikari

**Address:** Arizona Department of Economic Security

1789 W. Jefferson, Site code 837A

Phoenix, AZ 85007

**Phone:** (602) 542-9199

**Fax:** (602) 542-6000

**E-mail:** [radhikari@azdes.gov](mailto:radhikari@azdes.gov)

6. **Information about where a person may obtain a copy of substantive policy statement:**

A person may obtain a copy of the substantive policy statement by contacting the individual listed in item 5.

**NOTICE:**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.

*(This notice is required by A.R.S. § 41-1091(B).)*

**Substantive Policy Statement #3-52P-160**  
**Revised June 2, 2014**

**Guidelines for Assessing a Claimant's Efforts to Find Work**

A.R.S. § 23-771(A)(5.1), as amended by the 2012 state legislature, mandates, that for an unemployment insurance claimant to maintain eligibility for benefits, he or she must engage in a systematic and sustained effort to obtain work during at least four days of the week and make at least three work search contacts during that week. The only exception to this requirement is for shared work claimants.

Shared Work claimants are exempted by law from the above work seeking requirements even during periods of total unemployment, as long as such period does not exceed 2 weeks. If the duration of full unemployment exceeds such period, regular work search requirements go into effect. In these instances the claimant must be made aware of this requirement.

**Work Search Contacts**

Valid work search contacts can take on many forms. A number of the more "traditional" methods of seeking work are listed in Arizona Administrative Code R6-3-52160. However, deputies must also be aware that a significant percentage of today's job listings, job applications and even hiring are accomplished by electronic means. Therefore, reasonable efforts to find work include, but are not limited to, reviewing electronic announcements listed by either an employer or a job placement site, submittal of resumes/applications via fax or the Internet, announcements through social networks, and the placing of ads in electronic publications.

In reviewing a claimant's work search you may encounter a claimant who is listing all or a substantial majority of his/her **work search contacts via telephone**. In this instance take the following actions:

1. Keep in mind that there are occupations where work is normally located via telephone calls, e.g., for many nonunion construction workers it is not practical to go out to various jobsites and bother a foreman to obtain work, but they obtain work by calling (often in the evening) former employers, tradesmen the claimant knows, or leads the claimant has been provided. Thus when reviewing work search that is primarily by telephone, ask the claimant the following:
  - a. Why is the claimant making his/her work search efforts by telephone?
  - b. How has the claimant previously obtained work?

If the claimant's work search by telephone appears reasonable, no further action is required other than advising the claimant to continue meeting work search requirements. Note on the GUIDE 20 screen that the claimant's method of seeking work has been found acceptable.

2. If it appears the claimant's occupation is not one where telephone contacts are likely to meet success:
  - a. Advise the claimant that there is a precedential Appeals Board decision that telephone inquiries are merely preliminary and must be followed-up by actions more likely to result in success, i.e., in person contacts, internet applications, etc. Note on the GUIDE 20 screen that the claimant was advised of the work search requirements.
  - b. If the claimant's work search is reviewed again and the claimant continues to make only telephone contacts, disqualify the claimant for not making a systematic and sustained work search. The disqualification should begin with the Sunday of the week that the subsequent inadequate work search is reviewed.

### **Claimants with disabilities**

When evaluating work search efforts made by a claimant, deputies may encounter claimants who because of a disability or physical limitation must seek work by alternative methods. Once again, when evaluating use the same guidelines as shown above, i.e., how has the claimant found work in the past and why does the claimant have reason to believe his/her methods will succeed. If the claimant provides reasonable responses, no further action is required.

Deputies should also keep in mind that Substantive Policy Statement 3-52P-B094 is still in effect. This SPS provides the one exception to the requirement that a claimant be seeking and able to accept full time work. The policy statement provides that a person who is limited to accepting part time work because of a substantiated disability, illness, or injury may be eligible if the individual is meeting the work search requirements outlined in the opening paragraph above.

Deputies must also follow Department policy, DES 1-01-12 Non-Discrimination on the Basis of Disability for Programs, Services and Activities in applying this policy to individuals with disabilities.

### **Previously Reviewed Efforts and/or Methods**

Various Arizona Appeal board decisions have pointed out that, if a claims representative or adjudicator has previously reviewed a claimant's work search efforts during a specific period and allowed benefits, a second adjudicator cannot later review all or part of the same period and issue a determination that a disqualification is warranted due to an inadequate work search. The first reviewer, in effect, made an informal determination and the second reviewer is prohibited from "reconsidering" that determination. Exception: If there is evidence that the claimant made a specific misrepresentation during the first review of his/her work search efforts, the issuance of a disqualifying determination would not be precluded.

Similarly, if a claimant's method(s) of seeking work during a review were accepted and benefits allowed, and there is no documentation that the claimant was warned that these methods needed to be altered, the claimant cannot be disqualified as a result of a subsequent review, if the claimant continued to follow the same methodology.