

NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF ECONOMIC SECURITY

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

Exception to Availability for Full-Time Work Provision—Disabled Clients. The substantive policy statement number is 52P-B094.

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 statement 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:

Unemployment insurance criteria require an individual to be available for full-time work. The substantive policy statement describes an exception for individuals who are unable to work full-time because of a disability.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.A.C. R6-3-5205(2)(b), A.A.C. R6-3-52235(D), and A.A.C. R6-3-52160(A)(1)

5. **Statement as to whether the substantive policy statement is a new statement or a revision:**

This is a refiling of a previously existing substantive policy statement.

6. **Name, address and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:**

Name: Beth Broeker

Address: Arizona Department of Economic Security
1789 W. Jefferson, Site Code 837A
Phoenix, AZ 85007

Phone: 602-542-6555

E-mail: bbroeker@azdes.gov

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 Arizona Revised Statutes section 41-1033 for a review of the statement.

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

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIRECTORY OF RULES AND SUBSTANTIVE POLICY STATEMENTS
SUMMARY PAGE FOR SUBSTANTIVE POLICY STATEMENT

1. Chapter

DES 3 - Income Maintenance

2. Title of the substantive policy statement:

Unemployment Insurance Instruction Memo B-094, Exception to Availability for Full-Time Work Provision - Disabled Claimant

3. Policy statement number (if any):

Article 52 - Able and Available Benefit Policy Rules

4. Issue Date: October 23, 1995

5. Effective Date: October 23, 1995

6.

New Statement	<u> X </u>
Revised Statement	<u> </u>
Original Statement	<u> </u>

7. Summary of the contents:

Unemployment insurance eligibility criteria require an individual be available for full-time work. This policy describes an exception for individuals who are unable to work full time due to a disability.

8. The name, address, and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:

Name: Dave Berggren, ESA Technical Support Manager
Address: Arizona Department of Economic Security
1789 West Jefferson Site Code 701B4
Phoenix, Arizona 85007
Telephone: (602) 542-3771
Telefacsimile: (602) 542-3690

9. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

Copies are available in the DES Authority Library, 1789 West Jefferson, Phoenix, Arizona 85007, Site Code 810Z1, or from the person identified in paragraph 8. The first copy is free to a member of the public, for a noncommercial purpose. Additional copies are available at 25 cents per page.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

SUBSTANTIVE POLICY STATEMENT [A.R.S. §41-1001(20)]

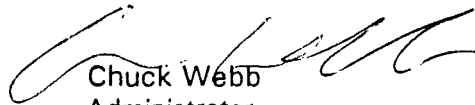
Unemployment Insurance

TO: Affected DES Personnel

DATE: OCT 23 1995

FROM:


Sharon E. Sergent
Administrator
Appellate Services Administration


Chuck Webb
Administrator
Employment Security Administration

SUBJECT: Exception to Availability for Full-Time
Work Provision - Disabled Clients
Instruction Memo B-094 (ESA Only)

After receiving input from an advocacy group representing persons with disabilities and the Attorney General's office, we have determined that we can no longer hold individuals who are able to work less than full time due to a substantiated disability ineligible for unemployment insurance benefits.

Arizona Administrative Code (A.A.C.) R6-5205(2)(b) provides that an individual must be available for full-time work. However, this requirement, when applied to a disabled individual, is not consistent with the Americans with Disabilities Act, as well as, possibly other state and federal statutes covering the disabled.

Therefore, effective upon issuance of this memo, the overall eligibility of individuals who meet the conditions listed under items (1) and (2), below, shall be considered under R6-3-52235(b), which states in part:

"An individual's ability to work may be restricted by illness or injury which results in temporary, partial, or total disability . . . A claimant's ability is judged solely on his capability to perform work for which he is qualified. . ."

In order to be eligible for benefits, an individual who indicates that (s)he is unable to work full time, must:

1. Provide medical evidence establishing that the restriction is due to a disability or handicap, yet the individual is able to work part time; and
2. Follow a course of action which is reasonably designed to result in reemployment for which the individual is qualified and capable of performing (A.A.C. R6-3-52160(A)(1).

AGENCY RECEIPT

SECRETARY OF STATE
FILED

NOTICE OF SUBSTANTIVE POLICY STATEMENT

2010 SEP -3 PM 1:20

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