



State of North Carolina

ROY COOPER
GOVERNOR

September 2, 2021

EXECUTIVE ORDER NO. 231

REINSTATING CERTAIN UNEMPLOYMENT INSURANCE REQUIREMENTS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, and 228-230; and

*Reinstating Certain Unemployment Insurance Requirements Waived by
Executive Order No. 118*

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) ("CARES Act"), afforded states flexibility to modify or suspend certain requirements for unemployment benefits in response to the COVID-19 pandemic; and

WHEREAS, the CARES Act provisions referenced above were extended by the Consolidated Appropriations Act, Pub. L. No. 116-260, 134 Stat. 1182 (2020), and later extended and amended by the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (2021); and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 118, Sections 2 and 3 of which streamlined unemployment insurance eligibility requirements to ensure availability of benefits to the maximum extent allowed by federal law in response to COVID-19; and

WHEREAS, among other measures, Executive Order No. 118 authorized the North Carolina Department of Commerce (the "Department") to waive, or interpret flexibly, as appropriate, the unemployment benefits eligibility requirements under N.C. Gen. Stats. §§ 96-14.1(b), 96-14.9(b) and (e), and 96-15.01(b)(2)(a), and directed the Department not to allocate charges to employers' accounts for individuals who are paid benefits for reasons related to COVID-19; and

WHEREAS, Executive Order No. 200, 35 N.C. Reg. 2116-2119 (April 1, 2021), directed the Department to reimpose the work search and work registration requirements of N.C. Gen. Stat. § 96-14.9(b) and (e) on a subset of claimants who filed for unemployment benefits on or after March 14, 2021, with flexibility given to the Department as to how these requirements could be achieved; and

WHEREAS, Executive Order No. 216, 35 N.C. Reg. 2660-2664 (June 15, 2021), reinstated the requirements under N.C. Gen. Stat. §§ 96-14.9(b) and (e), and 96-15.01(b)(2)(a) on all claimants; and

WHEREAS, the flexibility provided to states in the administration of unemployment benefits under the CARES Act and subsequent federal legislation is set to expire on September 6, 2021; and

WHEREAS, without further federal legislative action, the week ending September 4, 2021, is the last payable week in which the state can receive federal reimbursement for its payment of benefits to claimants during the one-week waiting period; and

WHEREAS, at the recommendation of the Department and to align with expiration of the flexibility provided in the federal legislation described above, the undersigned now desires to reinstate certain unemployment insurance requirements which were waived under Executive Order No. 118; and

WHEREAS, specifically, this Executive Order reinstates the one-week waiting period for unemployment benefits under N.C. Gen. Stat. § 96-14.1(b) and rescinds the directive to the Department not to allocate charges to employers' accounts for individuals who are paid benefits for reasons related to COVID-19; and

WHEREAS, the undersigned remains committed to supporting North Carolina businesses as they recover from the COVID-19 pandemic and to jobseekers as they return to the workplace; and

Statutory Determinations and Authority

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4), the undersigned is authorized to "cooperate and coordinate" with the President of the United States and the heads of department and other agencies of the federal government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Governorially declared State of Emergency, the undersigned has the power to “give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article”.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order No. 118, **IT IS ORDERED**:

Section 1. Recission of Certain Provisions of Executive Order No. 118.

Sections 2, 3(a)(i), and 3(b) of Executive Order No. 118 are hereby rescinded as of the effective date of this Executive Order. Sections 3(c) and 3(d) of Executive Order No. 118 remain in effect for all claimants until rescinded by another Executive Order or by an Executive Order rescinding the Declaration of a State of Emergency.

Section 2. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable to law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 3. Distribution.

The undersigned hereby orders that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the State of North Carolina; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 4. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 5. Effective Date.

This Executive Order is effective September 5, 2021. An Executive Order rescinding the Declaration of State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 2nd day of September in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

