

Chapter 511: STANDARDS FOR ACTIVELY SEEKING WORK

SUMMARY: This Chapter sets out the standards and definitions to be applied in determining under 5 M.R.S.A. §§ 17929(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work.

SECTION 1. PURPOSE

The purpose of this Chapter is to set out the standards of “actively seeking work” for a person who was awarded disability retirement benefits and for whom a final determination has been made that the person ~~does not~~ no longer meets the requirements for the continuation of disability retirement benefits.

SECTION 2. DEFINITIONS

- ~~1.~~ **Actively seeking work status.** “Actively seeking work status” means that a final determination has been made that the person no longer meets the requirements for the continuation of disability retirement benefits and that the person is able to engage in substantially gainful activity. In this status, disability benefits are continued for up to five years or until the person has secured substantially gainful activity but only so long as the person is actively seeking work.
- ~~2.~~ **Substantially gainful activity earnings level.** “Substantially gainful activity earnings level” means annual earnings that exceed the greater of \$20,000 or 80% of average final compensation at disability retirement, each adjusted by cost of living adjustments if applicable to the member’s retirement plan.

SECTION 3. STANDARDS

1. Except as specified in subsection 2, a~~A~~ person in actively seeking work status must:
 - A. Register with the Maine Department of Labor Career Center;
 - B. Participate in all job readiness or job seeking activities recommended by the Career Center;
 - C. Participate at least annually in resume preparation and interviewing skills workshops offered by the Career Center and submit an updated resume to the Career Center;
 - D. Maintain a current signed record release authorization that allows MainePERS to request and receive information from the Career Center and verify any other information submitted pursuant to this rule;

- E. Apply in person or online for at least eight jobs each month with employers who are hiring or otherwise accepting applications, at least four of which must result in written acknowledgement of receipt of the application; and
 - F. Do all other activities that a reasonably prudent non-incapacitated individual would do to secure work.
2. A person need not comply with subsection 1 to demonstrate actively seeking work status during the period of time, not to exceed five years, when the person is enrolled full-time in a degree, professional certificate, vocational, or apprenticeship program or another program approved by the Chief Executive Officer or designee as providing similar job preparedness.
 3. A person who has not secured employment at or above the substantially gainful activity earnings level after five years in actively seeking work status is presumed to not have been actively seeking work notwithstanding compliance with subsections 1 and 2. This presumption may be rebutted by information showing that the failure to secure employment at or above the substantially gainful activity earnings level was beyond the person's control. For persons in actively seeking work status on December 31, 2022, the five year period begins to run on that date.

SECTION 4. DOCUMENTING COMPLIANCE WITH STANDARDS

1. A person in actively seeking work status ~~must demonstrate~~ compliance with the standards set forth in Section 3, subsection 1, by submitting, so it is received by the system by the 5th of each month, an accurate, complete and signed report of the following information on forms provided by the system:

- A1. Verification of eight job applications, including date of submission, employer name and address, method of contact, and a short statement of the result, and a copy of any internet posting, advertisement or Career Center printout that led to submission of the application;
- B2. A copy of four written acknowledgements of receipt of job applications detailed under subsection 1, which written confirmation may include an email response, a computer-generated acknowledgement, a letter, or a signed system employer contact form;
- C3. Information pertaining to any job offer that the person has received and refused, including a detailed explanation for any such refusal;
- D3. Verification of the source and amount of any earnings, remuneration or other compensation from any employment, self-employment, commission sales, or other income for the previous month;
- E5. Verification of any change in name, address or telephone number; and
- F6. In the report submitted in January of each year, verification of any classes completed with the Career Center in the past year and verification that the person has submitted an updated resume to the Career Center.

2. A person relying on Section 3, subsection 2, to satisfy the actively seeking work standards must submit proof of full time enrollment in the degree, professional certificate, vocational, apprenticeship, or other approved program on at least a semi-annual basis in a form specified by the system.

SECTION 5. SUSPENSION OR TERMINATION OF BENEFITS

1. For any month during the calendar year that the person does not meet all the required standards, the retirement system will suspend the payment of benefits subject to 5 M.R.S. §17105-A. Such a suspension in benefits will occur in the month following the issuance of a written decision that the standards have not been met. If the person subsequently resumes compliance, the benefits will resume. Such resumption in benefits will occur in the month following the month for which the standards are again met. There will be no payment of disability retirement benefits for the month or months for which benefits were suspended under this subsection.
2. If the person fails to meet the standard for a total of any sequential or non-sequential three months in any 12-month period, the retirement system will terminate the payment of benefits.
3. If the person refuses a job that is consistent with the person's training, education, and experience that would generate an income equal to or greater than the member's substantially gainful activity earnings level, the retirement system will terminate the payment of benefits as of the month following the month that the person refused the job offer.
4. A disability retirement benefit recipient in actively seeking work status who is incarcerated shall be deemed unable to actively seek work, and the payment of disability retirement benefits will be suspended during the period of incarceration.
5. For any person who secures a job or engages in activity that generates an income equal to or greater than that member's substantially gainful activity earnings level, the retirement system will terminate the payment of benefits as of the month following the month the person accepts or engages in the job or activity.

STATUTORY AUTHORITY:

5 M.R.S. §§ 17103(4), 17929(2)(B)(1) and 18529(2)(B)(1)

EFFECTIVE DATE:

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