



**Rules of
Department of Labor and Industrial
Relations**

**Division 10—Division of Employment Security
Chapter 6—Veterans’ Unemployment Compensation
Program**

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**Title 8—DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS
Division 10—Division of Employment
Security
Chapter 6—Veterans' Unemployment
Compensation Program**

**8 CSR 10-6.010 Veterans' Unemployment
Compensation Program**

PURPOSE: This rule establishes the standards and procedures for the provision of state-funded unemployment compensation to war on terror veterans. This rule implements section 288.042, RSMo.

(1) Program Title. The provisions of section 288.042, RSMo providing state-funded unemployment compensation benefits to war on terror veterans shall hereinafter be referred to as the "Missouri Veterans' Unemployment Compensation Program."

(2) Funding. Subject to appropriation and the availability of funds, all expenditures for the Missouri Veterans' Unemployment Compensation Program, including expenditures for administrative expenses, veterans' unemployment compensation benefits, and refunds of erroneous fines, shall be paid from state funds deposited in the "War on Terror Unemployment Compensation Fund."

(3) Definitions. As used in this rule, except as otherwise required for the context, the following terms shall have the meanings ascribed:

(A) "Applicant" means an individual who files with the division an application for determination of entitlement to veterans' unemployment compensation;

(B) "Deputy" means a representative of the division designated to make investigations, administrative determinations, and assessments concerning applications for veterans' unemployment compensation and employer administrative penalties;

(C) "Division" means the Missouri Division of Employment Security;

(D) "Director" means the director of the Missouri Division of Employment Security;

(E) "Employed" means engaged to perform services for wages under any contract of hire whether written, oral, express, or implied. In determining whether an employer-employee relationship existed, the division shall apply the common law right of control test. In applying such test, the division shall consider Missouri and federal case law, Unit-

ed States Treasury regulations, and Internal Revenue Service revenue rulings;

(F) "Employer" means any individual, partnership, corporation, or other legal entity which has or had in its employ one or more individuals performing services for wages or under any contract of hire whether written, oral, express, or implied;

(G) "Wages" means all remuneration paid for personal services including commissions, bonuses, gratuities, severance pay, vacation pay, holiday pay, and the cash value of all remuneration paid in any medium other than cash; and

(H) "War on terror veteran" is an individual who meets all of the following criteria:

1. The individual is a Missouri resident who serves or has served in the United States military;

2. The individual is or was a member of the National Guard or a member of a United States armed forces reserves unit who was officially domiciled in the state of Missouri immediately prior to deployment;

3. The individual was deployed as part of his or her military unit at any time after September 11, 2001, and such deployment caused the individual to be unable to continue working for his or her non-military employer;

4. The individual was employed either part-time or full-time before deployment; and

5. A Missouri court or United States district court located in Missouri has found that the individual was discharged from or laid off from his or her non-military employment during deployment or within thirty (30) days after the completion of his or her deployment. Such court judgment must be final. For purposes of this rule, the individual shall be considered to have been discharged from his or her non-military employment if he or she is not offered the same wages, benefits, and similar work schedule upon his or her return after deployment.

(4) Benefit Entitlement. Subject to appropriation and availability of funds in the War on Terror Unemployment Compensation Fund, any war on terror veteran shall be entitled to receive veterans' unemployment compensation benefits pursuant to section 288.042, RSMo and this rule. A war on terror veteran shall be entitled to a weekly benefit amount of eight percent (8%) of the wages paid to the war on terror veteran during the calendar quarter in which the war on terror veteran earned the highest amount within the five (5) completed calendar quarters in which the war on terror veteran received wages

immediately before deployment. However, the maximum weekly benefit amount shall not exceed one thousand one hundred fifty-three dollars and sixty-four cents (\$1,153.64). A war on terror veteran shall be entitled to receive a weekly benefit amount for twenty-six (26) weeks.

(5) Payment of Benefits. At the discretion of the division, all veterans' unemployment compensation benefits payable to a war on terror veteran shall be paid either by means of electronic funds transferred directly into an account at a financial institution designated by the war on terror veteran or by issuance of a debit card to the war on terror veteran. As directed by a deputy, a war on terror veteran shall complete a direct deposit application form authorizing the division to directly deposit veterans' unemployment compensation benefit payments into a designated checking or savings account. A war on terror veteran may change the designated checking or savings account by completing and transmitting to the division a new direct deposit application form. If a deputy directs a war on terror veteran to complete a direct deposit application form, the division shall not pay veterans' unemployment compensation benefits to the war on terror veteran until such time as he or she has completed and returned to the division the completed direct deposit application form.

(6) Application to the Program. Individuals desiring to claim veterans' unemployment compensation benefits shall file with the division, on an approved form included herein, an Application for Missouri Veterans' Unemployment Benefits for determination of entitlement to veterans' unemployment compensation benefits. A deputy shall examine each such application to determine if the applicant is entitled to veterans' unemployment compensation benefits. If the deputy determines that the applicant is entitled to receive veterans' unemployment compensation benefits, the deputy shall also determine the applicant's weekly benefit amount. The applicant shall bear the burden of proving his or her entitlement to veterans' unemployment compensation benefits. The division shall mail a copy of the deputy's determination to the applicant at the applicant's last known address. If the applicant is aggrieved by the deputy's determination, the applicant may appeal the determination by filing an appeal with the division. The appeal must be filed in accordance with the provisions of section (10) of this rule.



(7) Recovery of Overpaid Benefits. Any individual who, by reason of error, omission, or misrepresentation of a material fact, has received veterans' unemployment compensation to which he or she is not entitled shall, in the discretion of the division, either be liable to have such sums deducted from any future veterans' unemployment compensation benefits payable pursuant to section 288.042, RSMo and this rule or shall be liable to repay to the division for the War on Terror Unemployment Compensation Fund a sum equal to such veterans' unemployment compensation so received by such individual. In addition, to other remedies provided by law and this rule, the division shall pursue recovery of overpaid veterans' unemployment compensation benefits through setoffs against state income tax refunds. The division shall pursue recovery of overpaid veterans' unemployment compensation benefits through setoffs against federal income tax refunds as permitted by federal law.

(A) A deputy shall issue an assessment to any individual who has received veterans' unemployment compensation benefits to which he or she is not entitled. Such assessment shall be made and served in the manner provided in section 288.160, RSMo. Within thirty (30) days of the date of service or mailing of the assessment, the individual may file a petition for reassessment with the division. The petition for reassessment must be filed in accordance with the provisions of section (10) of this rule.

(B) If the overpaid veterans' unemployment compensation benefits are not repaid and the assessment of such overpaid benefits has become final, the division may file for record in the office of the clerk of the circuit court in the county in which the individual resides, or any other county in which the individual has property, or all of them, a certificate specifying the amount of overpaid veterans' unemployment compensation benefits in the manner provided in section 288.170, RSMo. From the time of the filing of such certificate, the amount of overpaid veterans' unemployment compensation benefits specified therein shall have the force and effect of a judgment of the circuit court until the same is satisfied by the division through its duly authorized agents. Execution shall be issuable at the request of the division, its agent or attorney as is provided in the case of other judgments. No exemption shall be allowed from the levy of an execution issued for such overpaid veterans' unemployment compensation benefits and no indemnifying bond shall be required by the sheriff before

making levy. If the individual defaults in the payment of such overpaid veterans' unemployment compensation benefits, the division may file a civil action or take such other action as provided by law to collect the overpaid benefits.

(8) Employer Penalties. Any employer who is found in any Missouri court or United States district court located in Missouri to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to his or her absence while deployed shall be subject to an administrative penalty in the amount of thirty-five thousand dollars (\$35,000). Such court judgment must be final. In addition, to other remedies provided by law and this rule, the division shall pursue collection of the administrative penalty through setoffs against state income tax refunds. The division shall also pursue collection of the administrative penalty through setoffs against federal income tax refunds as permitted by federal law.

(A) A deputy shall issue an assessment to any such employer for the administrative penalty in the amount of thirty-five thousand dollars (\$35,000). Such assessment shall be made and served in the manner provided in section 288.160, RSMo. Within thirty (30) days of the date of service or mailing of the assessment, the employer may file a petition for reassessment with the division. The petition for reassessment must be filed in accordance with the provisions of section (10) of this rule.

(B) If the administrative penalty is not paid and the assessment of such penalty has become final, the division may file for record in the office of the clerk of the circuit court in the county in which the employer resides, or has his or her place of business, or any other county in which the employer has property, or all of them, a certificate specifying the amount of the administrative penalty in the manner provided in section 288.170, RSMo. From the time of the filing of such certificate, the amount of the administrative penalty specified therein shall have the force and effect of a judgment of the circuit court until the same is satisfied by the division through its duly authorized agents. Execution shall be issuable at the request of the division, its agent or attorney as is provided in the case of other judgments. No exemption shall be allowed from the levy of an execution issued for such administrative penalty and no indemnifying bond shall be required by the sheriff before making levy. If the employer defaults in the payment of such

administrative penalty, the division may file a civil action or take such other action as provided by law to collect the penalty.

(9) Refund of Erroneous Penalties. If not later than three (3) years after the date on which an employer has paid an administrative penalty assessed by the division, the employer may request a refund of such penalty. While the request for refund must be in writing, no specific form shall be required. The request for refund must be signed by an officer or authorized representative of the employer. If a deputy determines that the administrative penalty was in fact erroneously assessed, the division shall refund the amount of such penalty without interest. The employer shall bear the burden of proving that the administrative penalty was erroneously assessed. If the deputy determines that the administrative penalty was not erroneously assessed, the request for refund shall be denied. If the deputy denies the request for refund, the employer may file an appeal with the division. The appeal must be filed in accordance with the provisions of section (10) of this rule.

(10) Appeals.

(A) Any individual, partnership, corporation, or other legal entity authorized by law which is aggrieved by a determination issued by a deputy may file an appeal with the division. The appeal must be filed within thirty (30) days of the date the determination was mailed. While the appeal must be in writing, no specific form shall be required. An appeal filed by an individual must be signed by the individual, the individual's authorized agent, or the individual's attorney licensed to practice law in the state of Missouri. An appeal filed by a partnership, corporation, or other legal entity authorized by law must be signed by an officer of the entity, full-time managerial employee of the entity, or an attorney licensed to practice law in the state of Missouri. The division shall be a party to any appeal filed pursuant to this rule. If a timely appeal is filed, the parties shall be granted a hearing before an impartial hearing officer designated by the director. The hearing shall be held in accordance with the provisions of Chapter 536, RSMo. Any party aggrieved by the decision of the hearing officer may seek judicial review in accordance with section 536.110, RSMo.

(B) Any individual, partnership, corporation, or other legal entity authorized by law which is aggrieved by an assessment issued by a deputy may file a petition for reassessment with the division. The petition for



reassessment must be filed within thirty (30) days of the date the assessment was served or mailed. While the petition for reassessment must be in writing, no specific form shall be required. A petition for reassessment filed by an individual must be signed by the individual, the individual's authorized agent, or the individual's attorney licensed to practice law in the state of Missouri. A petition for reassessment filed by a partnership, corporation, or other legal entity authorized by law must be signed by an officer of the entity, full-time managerial employee of the entity, or an attorney licensed to practice law in the state of Missouri. The division shall be a party to any petition for reassessment filed pursuant to this rule. If a timely petition for reassessment is filed, the parties shall be granted a hearing before an impartial hearing officer designated by the director. The hearing shall be held in accordance with the provisions of Chapter 536, RSMo. Any party aggrieved by the decision of the hearing officer may seek judicial review in accordance with section 536.110, RSMo.

(11) Federal Judgments. The division shall take judicial notice of judgments in suits brought under the Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. 4301) and such judgments shall be conclusive with regard to an applicant's entitlement to veterans' unemployment compensation and an employer's liability for the administrative penalty set forth in subsection 4 of section 288.042, RSMo.

(12) Records and Information.

(A) In addition to the information required on the application to determine entitlement to veterans' unemployment compensation benefits, an applicant shall provide such other information the deputy deems reasonably necessary to determine the applicant's entitlement to veterans' unemployment compensation benefits and the applicant's weekly benefit amount.

(B) Each employer shall provide copies of business records and such other information as the deputy deems reasonably necessary to determine an applicant's entitlement to veterans' unemployment compensation benefits and an applicant's weekly benefit amount. Each employer shall also provide copies of business records and such other information, as the deputy deems reasonably necessary to determine the propriety of an administrative penalty.

(C) In discharging the duties imposed by section 288.042, RSMo, the director and any

authorized representative may administer oaths and affirmations, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of business records and other documents. If any person refuses to obey a subpoena issued by the director or any authorized representative, the division may seek enforcement of the subpoena in any court within this state having jurisdiction of the person.

(13) Filing Documents. Any application, appeal, petition for reassessment, or other document required under this rule to be filed with the division shall be deemed filed on the date received by the division. In instances where the last day for the filing of any such paper falls on a Saturday, Sunday, or legal holiday, the filing shall be deemed timely if accomplished on the next day which is neither a Saturday, Sunday, nor a legal holiday.

(14) Facsimile Transmission. Any document required under this rule to be filed with the division may be filed by facsimile transmission. Documents received by facsimile transmission on a regular division workday will be considered filed on the date of receipt. A facsimile transmission received on a Saturday, Sunday or legal holiday will be considered filed on the next regular division workday. The date and time of receipt will be determined by the division's receiving fax machine.



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF EMPLOYMENT SECURITY

APPLICATION FOR MISSOURI VETERANS' UNEMPLOYMENT BENEFITS

Name _____ SS# _____
First MI Last

Address _____
Street / P.O. Box City State Zip Code

County _____ Phone No. _____ Birth Date _____ Sex _____

Military Service: (ATTACH A COPY OF YOUR FEDERAL FORM DD214 TO THIS APPLICATION.)

Have you served in the United States military at any time after September 11, 2001? Yes No

Were you a member of the Missouri National Guard? Yes No

Were you a member of a United States Armed Forces Reserve Unit? Yes No

If "Yes," were you officially domiciled in the state of Missouri? Yes No

Date of domicile election: _____

Were you deployed as part of your military unit at any time after September 11, 2001? Yes No

If "Yes," dates of deployment: From _____ To _____

Non-military (Civilian) Employment:

Prior to deployment, were you employed either full-time or part-time with a non-military (civilian) employer? Yes No

What type of non-military work did you perform? _____

What were your non-military work hours? _____ Non-military salary: _____

Non-military employee benefits: _____

Upon completion of your military deployment, did your non-military employer offer you the same position, salary, employee benefits and work hours? Yes No If "No," what was different? _____

Were you discharged or laid off from your non-military (civilian) employer either during deployment or within thirty (30) days after completion of your deployment? Yes No If "Yes," were you discharged or laid off? _____

Date of discharge or lay off _____ Reason for discharge or lay off? _____

Non-military (civilian) employer at time of military deployment:

Name _____

Address _____
Street / P.O. Box City State Zip Code

(over)



To be entitled to war on terror veterans' unemployment compensation benefits, the veteran must have a final court judgment from a Missouri Court or United States District Court located in Missouri finding that the veteran was discharged from or laid off from his or her non-military employment during deployment or within thirty days after the completion of deployment. See Section 288.042 of the Revised Statutes of Missouri.

Did you sue your non-military employer because you were discharged or laid off? Yes No

If "Yes," provide the name of the court: _____

Case No. _____

Date of court judgment: _____ (ATTACH A COPY OF THE COURT JUDGMENT.)

Was the judgment appealed? Yes No

If "Yes," provide the name of the appellate court: _____

Case No. _____ Date appeal filed: _____

Applicant's Signature: _____ Date: _____

Under penalty of perjury, I certify that the above information is true.

Mail this application to:
Veterans Benefit Coordinator, Division of Employment Security, P.O. Box 59, Jefferson City, MO 65104.

You may file this application by faxing it to: 573-751-9732.

If you have questions, please call 573-751-9827.

Be sure to attach a copy of your federal form DD214 and a copy of any court judgment to this application.



AUTHORITY: section 288.042, RSMo Supp. 2007 and section 288.220, RSMo 2000.
Original rule filed Sept. 13, 2007, effective
March 30, 2008.*

**Original authority: 288.042, RSMo 2006, amended 2007
and 288.220, RSMo 1951, amended 1955, 1961, 1963,
1967, 1971, 1995.*