§ 591. Eligibility for benefits. * 1. Unemployment. Benefits, except as provided in section five hundred ninety-one-a of this title, shall be paid only to a claimant who is totally unemployed or partially unemployed. A claimant who is receiving benefits under this article shall not be denied such benefits pursuant to this subdivision or to subdivision two of this section because of such claimant's service on a grand or petit jury of any state or of the United States.

* NB Effective until December 7, 2027

* 1. Unemployment. Benefits shall be paid only to a claimant who is totally unemployed or partially unemployed. A claimant who is receiving benefits under this article shall not be denied such benefits pursuant to this subdivision or to subdivision two of this section because of such claimant's service on a grand or petit jury of any state or of the United States.

* NB Effective December 7, 2027

* 2. Availability and capability. Except as provided in section five hundred ninety-one-a of this title, no benefits shall be payable to any claimant who is not capable of work or who is not ready, willing and able to work in his usual employment or in any other for which he is reasonably fitted by training and experience.

* NB Effective until December 7, 2027

* 2. Availability, capability, and work search. No benefits shall be payable to any claimant who is not capable of work or who is not ready, willing and able to work in his or her usual employment or in any other for which he or she is reasonably fitted by training and experience and who is not actively seeking work. In order to be actively seeking work a claimant must be engaged in systematic and sustained efforts to find work. The commissioner shall promulgate regulations defining systematic and sustained efforts to find work and setting standards for the proof of work search efforts. Such regulations shall take into account the need for claimants to provide child care for their child or children.

* NB Effective December 7, 2027

3. Vacation period or holiday.

(a) Compensation paid to a claimant for any day during a paid vacation period, or for a paid holiday, shall be considered compensation from employment and shall be included in the calculation of a claimant's

benefit for partial unemployment as set forth in subdivision five of section five hundred ninety of this article.

(b) The term "vacation period", as used in this subdivision, means the time designated for vacation purposes in accordance with the collective bargaining agreement or the employment contract or by the employer and the claimant, his union, or his representative. If either the collective bargaining agreement or the employment contract is silent as to such time, or if there be no collective bargaining agreement or employment contract, then the time so designated in writing and announced to the employees in advance by the employer is to be considered such vacation period.

(c) A paid vacation period or a paid holiday is a vacation period or a holiday for which a claimant is given a payment or allowance not later than thirty days thereafter, directly by his employer or through a fund, trustee, custodian or like medium provided the amount thereof has been contributed solely by the employer on behalf of the claimant and the amount so contributed by the employer is paid over in full to the claimant without any deductions other than those required by law, even if such payment or allowance be deemed to be rumuneration for prior services rendered as an accrued contractual right, and irrespective of whether the employment has or has not been terminated.

(d) Any agreement expressed or implied by a claimant or by his union or other representative to a plant or department shut down for vacation purposes is not of itself to be considered either a withdrawal by such employee from the labor market during the time of such vacation shut down or to render him unavailable for employment during the time of such vacation shut down.

4. (a) An unemployed individual shall be eligible to receive benefits with respect to any week only if such individual participates in reemployment services, such as job search assistance services, available under any state or federal law, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the commissioner, unless the commissioner determines that:

(i) the individual has completed such services; or

(ii) there is justifiable cause for the claimant's failure to

participate in such services.

(b) Such profiling system shall be established pursuant to a plan of the department which shall include, but not be limited to:

(i) specification of the profiling methodology, including factors used to determine a claimant's required participation in reemployment services and the statistical relationship of such factors to the exhaustion of benefits by certain claimants;

(ii) standards to be used to insure that all claimants are uniformly evaluated against the profiling criteria;

(iii) a description of criteria to be used to make assignments to basic reemployment services offered;

(iv) procedures for notification of the right of appeal and for appeal by a claimant of the profiling assessment and referral of the department;

(v) an evaluation of the extent to which reemployment services are available throughout the state and accessible to claimants;

(vi) a demonstration of efforts by the department to coordinate with the local providers offering reemployment services, to avoid duplication of services among providers offering similar reemployment services to the same participant group;

(vii) policies and procedures for referrals to reemployment services, including referrals to providers other than the department; and

(viii) guidelines governing the extent to which education and skills or occupational training shall be offered.

(c) The department shall, at a time and in a manner consistent with federal requirements, submit a report to the temporary president of the senate and the speaker of the assembly on the profiling system authorized herein except that such report:

(i) shall be submitted to the temporary president of the senate and the speaker of the assembly no later than September first, nineteen hundred ninety-five and annually thereafter, and

(ii) shall include data on the number of individuals profiled and the number of profiled individuals exhausting benefits as well as a description of the service or services provided to profiled individuals and the number of individuals referred for reemployment services during the program year ending the preceding June thirtieth.

5. Maximum combined payments. If a claimant is receiving benefits pursuant to subdivision six of section fifteen of the workers' compensation law, the unemployment benefits to which a claimant may be entitled pursuant to this article shall be limited to the difference between the amount of workers' compensation benefits and one hundred percent of the claimant's average weekly wage.

6. Dismissal pay. (a) No benefits shall be payable to a claimant for any week during a dismissal period for which a claimant receives dismissal pay if such weekly dismissal pay exceeds the claimant's maximum weekly benefit rate plus the claimant's partial benefit credit.

(b) The term "dismissal pay", as used in this subdivision, means one or more payments made by an employer to an employee due to his or her separation from service of the employer regardless of whether the employer is legally bound by contract, statute or otherwise to make such payments. The term does not include payments for pension, retirement, accrued leave, and health insurance or payments for supplemental unemployment benefits.

(c) The term "dismissal period", as used in this subdivision, means the time designated for weeks of dismissal pay attributable to the claimant's weekly earnings in accordance with the collective bargaining agreement, employment contract, employer's dismissal policy, dismissal agreement with the employer or other such agreement. If no such agreement, contract or policy designates a dismissal period, then the dismissal period shall be the time designated in writing in advance by the employer to be considered the dismissal period. If no time period is designated, the dismissal period shall commence on the day after the claimant's last day of employment. If the dismissal payment is in a lump sum amount or for an indefinite period, dismissal payments shall be allocated on a weekly basis from the day after the claimant's last day of employment and the claimant shall not be eligible for benefits for any week for which it is determined that the claimant receives dismissal pay. The amount of dismissal pay shall be allocated based on the claimant's actual weekly remuneration paid by the employer during his or her employment or, if such amount cannot be determined, the amount of the claimant's average weekly wage for the highest calendar quarter.

(d) Notwithstanding the foregoing, the provisions of this subdivision

shall not apply during any weeks in which the initial payment of dismissal pay is made more than thirty days from the last day of the claimant's employment.