

**SECTION 41-35-120.** Disqualification for benefits.

Any insured worker is ineligible for benefits for:

(1) Leaving work voluntarily. - If the Commission finds that he has left voluntarily, without good cause, his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the Commission that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for such services equal to at least eight times the weekly benefit amount of his claim.

(2) Discharge for cause connected with the employment.

(a) If the commission finds that he has been discharged for cause connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request, and continuing not less than five nor more than the next twenty-six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker's benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification. The ineligibility period must be determined by the commission in each case according to the seriousness of the cause for discharge. A charge of discharge for cause connected with the employment may not be made for failure to meet production requirements unless the failure is occasioned by wilful failure or neglect of duty. "Cause connected with the employment" as used in this item requires more than a failure in good performance of the employee as the result of inability or incapacity.

(b) An insured worker is considered to have been discharged for cause pursuant to this item, and is ineligible for benefits if the:

(i) company has communicated a policy prohibiting the illegal use of drugs, the violation of which may result in termination; and

(ii) insured worker fails or refuses to provide a specimen pursuant to a request from the employer, or otherwise fails or refuses to cooperate by providing an adulterated specimen; or

(iii) insured worker provides a blood, hair, or urine specimen during a drug test administered on behalf of the employer, which tests positive for illegal drugs or legal drugs used unlawfully, provided:

(A) the sample was collected and labeled by a licensed health care professional or another individual authorized to collect and label test samples by federal or state law, including law enforcement personnel; and

(B) the test was performed by a laboratory certified by the National Institute on Drug Abuse, the College of American Pathologists or the State Law Enforcement Division; and

(C) any initial positive test was confirmed on the specimen using the gas chromatography/mass spectrometry method, or an equivalent or more accurate scientifically accepted methods approved by the National Institute on Drug Abuse.

(iv) for purposes of this item, 'unlawfully' means without a prescription.

(c) If an insured worker makes an admission pursuant to the employer's policy, which provides that voluntary admissions made before the employer's request to the employee to submit to testing may protect an employee from immediate termination, then the admission is inadmissible for purposes of this section as long as the:

(A) employer has communicated a written policy, which provides protection from immediate termination for employees who voluntarily admit prohibited drug use before the employer's request to submit to a test; and

(B) employee makes the admission specifically pursuant to the employer's policy.

(d) Information, interviews, reports, and drug-test results, written or otherwise, received by an employer through a drug-testing program may be used or received in evidence in proceedings conducted pursuant to the provisions of this title for the purposes of determining eligibility for unemployment compensation, including any administrative or judicial appeal.