

New RRB Regulation Definition of “Available for Work”

Under the RUIA, an employee must be “available for work” as a condition of eligibility for UI benefits. The agency’s regulations define “available for work” as being willing and ready to work. 20 CFR Part 327. An employee subject to a governmental stay-at-home order would not be considered available for work since they could not leave home, and ordinarily would not be eligible for UI benefits. As a result, the RRB has published a regulation that may deem some employees available for work in this situation that reads as follows:

§ 327.5 Meaning of “available for work.”

(d) Deemed available for work. During the period extending from March 1, 2020 until December 31, 2020, a claimant will be deemed to be available for work during any period for which he or she is subject to a state or local order related to the public health emergency declared effective March 1, 2020 preventing him or her from reporting to work.

Because it is an emergency regulation, it is effective upon publication. <https://www.federalregister.gov/documents/2020/04/07/2020-06975/available-for-work>

Please note, this is only if the claimant is **subject** to a state or local order. Most railroaders are considered essential and not subject to such orders. You can see in the agency’s FAQs (Question 3) how we anticipate the “deemed available for work” to play out in this scenario— if the employee below is eligible for UI, then the agency will deem them available for work.

If a state or local order to shelter in place, restricts me from reporting to work, will I be eligible for UI benefits under the RUIA?

POSSIBLY. Because of the vital role the railroads play, most railroad positions are exempt from such orders, and therefore, most railroad employees would not be eligible for UI benefits and would be expected to report to work. However, if you believe your position is not exempt from the order, you may be eligible. On your UI application or claim you should identify which order you believe prevents you from reporting to work. A decision on whether you are eligible for UI benefits will be made by the Railroad Retirement Board (RRB).