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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 1@ Unemployment Compensation

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Chapter 3@ SCOPE OR COVERAGE

**606-1 Assistant and Substitute Employees -Constructive**

Article 1@ EMPLOYMENT

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Section 606-1@ Assistant and Substitute Employees -Constructive Knowledge

**(a)**

"Constructive knowledge" by an employing unit of the work of each individual employed to perform or to assist in performing the work of any employee of that employing unit, whether or not the individual was hired or paid directly by the employing unit, exists under any of the following circumstances: (1) The extent of the territory to be covered, or the amount of work to be done is such that the work of the employee cannot be performed without the assistance of another individual. (2) The nature of the business is such that the employment of an assistant or substitute individual will be required to perform or to assist in performing the work of the employee. (3) The amount or the method of computation of the compensation indicates that the remuneration is in excess of that normally expected to be paid solely to one employee for the performance of the work. (4) The employment of an assistant or substitute individual in the particular work involved is a customary practice, or is required by a union agreement or the contract of employment. (5) The employing unit has given the employee general authority to take such action as in his judgment is required for performance of the work.

**(1)**

The extent of the territory to be covered, or the amount of work to be done is such that

the work of the employee cannot be performed without the assistance of another individual.

**(2)**

The nature of the business is such that the employment of an assistant or substitute individual will be required to perform or to assist in performing the work of the employee.

**(3)**

The amount or the method of computation of the compensation indicates that the remuneration is in excess of that normally expected to be paid solely to one employee for the performance of the work.

**(4)**

The employment of an assistant or substitute individual in the particular work involved is a customary practice, or is required by a union agreement or the contract of employment.

**(5)**

The employing unit has given the employee general authority to take such action as in his judgment is required for performance of the work.

**(b)**

The department shall not be precluded by this regulation from considering circumstances, in addition to those enumerated in subdivision (a) of this section, as constituting "constructive knowledge."

**(c)**

The fact that an employing unit pays a lump sum to an employee and that employee, in turn, hires, directs, controls and pays an assistant or substitute individual is not controlling. Neither is it controlling if a contract of employment provides that an individual engaged by an employee to assist him in performing or

to perform his work shall be his employee rather than an employee of the employing unit.