

California Code Of Regulations

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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 5@ UNEMPLOYMENT COMPENSATION BENEFITS

## **1256-8 Voluntary Leaving -Good Cause -Transportation to**

Article 1@ ELIGIBILITY AND DISQUALIFICATIONS

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Section 1256-8@ Voluntary Leaving -Good Cause -Transportation to Work

### **Work**

#### **(a)**

Scope. This section relates to whether good cause exists for leaving most recent work when an individual leaves work due to distance or other problems of transportation to work. Sections 1256-1, 1256-2, and 1256-3 of these regulations set forth general principles also applicable under this section.

#### **(b)**

General. An individual who leaves work due to distance or other problems of transportation to work does so with good cause if a reasonable person genuinely desirous of retaining employment and similarly situated would have been compelled to leave work after having sought without success all reasonable alternatives by which to provide transportation to work. Transportation to work is the personal responsibility of the employee unless special circumstances or local custom reasonably require the employer to furnish transportation.

#### **(c)**

Leaving Work--Good Cause. An individual leaves work with good cause if all of the following conditions exist:(1) The problem of transportation to work which causes the leaving of work is the result of a substantial change such as a change in the customary means of transportation, a change of circumstances beyond the claimant's control such as a health problem or a change in work shifts or work

hours by the employer, a change in the employer's place of business, or a change of the claimant's place of residence for compelling reasons. (2) Neither private nor public transportation is reasonably available or feasible when all pertinent factors are considered such as the ease or difficulty of access to transportation facilities, distance to work, travel time, cost of transportation in relation to earnings, the individual's age and physical condition, risks to the individual's safety which may be incurred by the use of available transportation, and local customs and practices. (3) Prior to leaving work, the individual explored without success reasonable alternatives to solve a transportation problem such as a carpool, a transfer to a different shift or a more convenient location with the same employer, or a temporary leave of absence from employment pending the availability of suitable transportation, or other reasonable alternatives which would not cause undue hardship to the individual.

COMMENTS. Transportation problems vary from case to case. Precise guidelines are impractical. Each situation is decided on its own particular facts according to the objective test of whether a reasonable person genuinely desirous of retaining employment would be compelled to leave work under the same circumstances. Nevertheless, certain considerations cut across all cases. For example, distance to work is not alone a controlling factor but is examined in relation to the required travel time, the cost of travel in relation to the claimant's earnings, local commuting practices, and other factors. A claimant who changes residence to a location from which commuting to work is still reasonable does not have good cause for leaving work due to transportation shifts even if the change in residence is for compelling reasons. If commuting from the claimant's new residence is unreasonable, good cause for leaving work turns upon whether the claimant's reasons for moving are compelling. A claimant who changes residence for noncompelling reasons leaves

work without good cause even if commuting from the new residence is unreasonable. EXAMPLE 1. Claimant A left work in one California community to preserve A's marriage and to go with the family to a nearby California community. There was no public transportation between the two communities, and no carpool arrangement to the former work was available. No transfer was possible. The pay in the former job was 85 cents an hour. The daily cost of commuting from the new community would have been about \$2. A's leaving is with good cause because the cost of commuting by private car was excessive in relation to the earnings, there was no reasonable alternative available, and the preservation of the marriage is a compelling reason for leaving. EXAMPLE 2. B commuted for about 3/4 of an hour from California Community X to work in a plant in Community W. B left the work in Community W when B moved with the family to Community Y from which the travel time to commute to Community W was about 1 hour. The increase in the cost of commuting was nominal. Public transportation was reasonably available. Employees of the employer in Community W had ongoing carpool programs. B decided not to use the family car to commute to Community W, made no effort to locate public transportation, and did not explore carpool arrangements. B's leaving is without good cause, since the increased cost and time of commuting was not substantial, and B did not make any effort to use available solutions of public transportation or carpool arrangements. EXAMPLE 3. C left her work because she had to walk a considerable distance in the city to take her employer's bus to work, and repeat that long walk alone at 2 a.m. upon returning from work. There was a threat to her personal safety during the night-time walk. The travel time on the bus was over 1 hour. C had no private car, and no public transportation or carpool arrangement was available. C's leaving is with good cause due to the threat to her safety, in view of the lack of transportation or other reasonable alternative, and

the distance and total travel time involved. EXAMPLE 4. D commuted by private car to work 60 miles each way daily, approximately 2 hours each way. D was 66 years of age. D's work duties included climbing ladders and moving in and out of planes. Although D was in good health, D began to suffer fatigue during the commute to work. On one occasion D dozed off during the commute and D's car struck a barricade. D left work after and due to this incident, although D was not injured. No transfer, carpool, or other alternative was available D's leaving is with good cause, due to advanced age related to the substantial hazard in commuting to and from work, and the excessive distance and travel time in commuting.

**(1)**

The problem of transportation to work which causes the leaving of work is the result of a substantial change such as a change in the customary means of transportation, a change of circumstances beyond the claimant's control such as a health problem or a change in work shifts or work hours by the employer, a change in the employer's place of business, or a change of the claimant's place of residence for compelling reasons.

**(2)**

Neither private nor public transportation is reasonably available or feasible when all pertinent factors are considered such as the ease or difficulty of access to transportation facilities, distance to work, travel time, cost of transportation in relation to earnings, the individual's age and physical condition, risks to the individual's safety which may be incurred by the use of available transportation, and local customs and practices.

**(3)**

Prior to leaving work, the individual explored without success reasonable alternatives to solve a transportation problem such as a carpool, a transfer to a different shift or a more convenient location with the same employer, or a temporary leave of absence

from employment pending the availability of suitable transportation, or other reasonable alternatives which would not cause undue hardship to the individual.

COMMENTS. Transportation problems vary from case to case. Precise guidelines are impractical. Each situation is decided on its own particular facts according to the objective test of whether a reasonable person genuinely desirous of retaining employment would be compelled to leave work under the same circumstances.

Nevertheless, certain considerations cut across all cases. For example, distance to work is not alone a controlling factor but is examined in relation to the required travel time, the cost of travel in relation to the claimant's earnings, local commuting practices, and other factors. A claimant who changes residence to a location from which commuting to work is still reasonable does not have good cause for leaving work due to

transportation shifts even if the change in residence is for compelling reasons. If commuting from the claimant's new residence is unreasonable, good cause for leaving work turns upon whether the claimant's reasons for moving are compelling. A claimant who changes residence for noncompelling reasons leaves work without good cause even if commuting from the new residence is unreasonable.

EXAMPLE 1. Claimant A left work in one California community to preserve A's marriage and to go with the family to a nearby California community. There was no public transportation between the two communities, and no carpool arrangement to the former work was available. No transfer was possible. The pay in the former job was 85 cents an hour. The daily cost of commuting from the new community would have been about \$2. A's leaving is with good cause because the cost of commuting by private car was excessive in relation to the earnings, there was no reasonable alternative available, and the preservation of the marriage is a compelling reason for leaving. EXAMPLE 2. B commuted for about 3/4 of an hour from California Community X to work in a plant in Community W. B left the work in Community W when B moved with the family to Community Y from which the travel

time to commute to Community W was about 1 hour. The increase in the cost of commuting was nominal. Public transportation was reasonably available. Employees of the employer in Community W had ongoing carpool programs. B decided not to use the family car to commute to Community W, made no effort to locate public transportation, and did not explore carpool arrangements. B's leaving is without good cause, since the increased cost and time of commuting was not substantial, and B did not make any effort to use available solutions of public transportation or carpool arrangements.

EXAMPLE 3. C left her work because she had to walk a considerable distance in the city to take her employer's bus to work, and repeat that long walk alone at 2 a.m. upon returning from work. There was a threat to her personal safety during the night-time walk. The travel time on the bus was over 1 hour. C had no private car, and no public transportation or carpool arrangement was available. C's leaving is with good cause due to the threat to her safety, in view of the lack of transportation or other reasonable alternative, and the distance and total travel time involved. EXAMPLE 4. D commuted by private car to work 60 miles each way daily, approximately 2 hours each way. D was 66 years of age. D's work duties included climbing ladders and moving in and out of planes. Although D was in good health, D began to suffer fatigue during the commute to work. On one occasion D dozed off during the commute and D's car struck a barricade. D left work after and due to this incident, although D was not injured. No transfer, carpool, or other alternative was available D's leaving is with good cause, due to advanced age related to the substantial hazard in commuting to and from work, and the excessive distance and travel time in commuting.