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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

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Article 1@ ELIGIBILITY AND DISQUALIFICATIONS

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Section 1264-1@ Services Performed by Aliens

1264-1 Services Performed by Aliens

The wages that compensate the services performed by an alien may be used as the basis for the payment of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits to the extent that the alien was in one of the following immigration statuses while performing the services: (1) Lawfully admitted to the United States for permanent residence. (2) Lawfully present in the United States for the purpose of performing the services. (3) Permanently residing in the United States under color of law, also referred to as "PRUCOL."

(1)

Lawfully admitted to the United States for permanent residence.

(2)

Lawfully present in the United States for the purpose of performing the services.

(3)

Permanently residing in the United States under color of law, also referred to as "PRUCOL."

(b)

An alien has the burden of proving the extent to which he or she performed base period services while in one or more of the statuses listed in subdivision (a). Any determination by the department that an alien was not, or was not to the extent

stated in the determination, in one of the statuses listed in subdivision (a) during his or her base period, shall be based on a preponderance of the evidence. Such evidence may include evidence that the Immigration and Naturalization Service (INS) was unable to verify the alien's immigration status under Section 1326-13 of these regulations and any other relevant information provided by the INS in response to the department's request for such verification.

(c)

As used in this regulation, the following terms have the meanings assigned: (1) "Alien" means a claimant who was neither a United States citizen nor a United States national during all of his or her base period. (2) "Preponderance of the evidence" means such evidence that, as when weighed against the evidence opposed to it, has the more convincing force and the greater probability of truth. (3) "Base period services" means the services that are compensated by the wages paid in the claimant's base period as defined in Section 1275 of the code. (4) "INS" means the United States Immigration and Naturalization Service.

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"Preponderance of the evidence" means such evidence that, as when weighed against the evidence opposed to it, has the more convincing force and the greater probability of truth.

(3)

"Base period services" means the services that are compensated by the wages paid in the claimant's base period as defined in Section 1275 of the code.

(4)

"INS" means the United States Immigration and Naturalization Service.

(d)

As a condition of eligibility and in order for the department to determine the extent to which base period wages may be used in the computation of benefits, all claimants shall state whether and to what extent they were United States citizens, nationals, or in one of the immigration statuses listed in subdivision (a) of this section, when they performed base period services.

(e)

If any subdivision of this regulation or its application to any person or circumstance is held invalid, the invalidity shall not affect other subdivisions or applications of this regulation which can be given effect without the invalid subdivision or application, and in this respect the subdivisions of this regulation are severable.