

(i) was less than 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, or

(ii) was less than 4 percent.

(6) "Rate of insured unemployment," for purposes of paragraphs (4) and (5) of this subsection, means the percentage derived by dividing

(i) the average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the Executive Director on the basis of his reports to the United States Secretary of Labor, by

(ii) the average monthly employment covered under this Act for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period.

(7) "Regular benefits" means benefits payable to an individual under this Act or under any other state law (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(8) "Extended benefits" means benefits (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.

(9) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(i) Has received, prior to that week, all of the regular benefits that were available to him under this Act or any other State law (including dependents' allowances and benefits payable to Federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year which includes that week;

Provided, that, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(ii) his benefit year having expired prior to that week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include that week; and

(iii) has no ~~right~~ RIGHT to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other Federal laws as are specified in regulations issued by the United States Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking those benefits and the appropriate agency finally