

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY ARKANSAS DEPARTMENT OF WORKFORCE SERVICES
DIVISION _____
DIVISION DIRECTOR ARTEE WILLIAMS
CONTACT PERSON ROGER HARROD/SHARON WALKER
ADDRESS P.O. BOX 8040, LITTLE ROCK, AR 72203
PHONE NO. 501-681-3150 FAX NO. 501-682-3124 E-MAIL Roger.Harrod@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING SHARON WALKER
PRESENTER E-MAIL Sharon.Walker@arkansa.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule?

EXTENSION OF RESPONSE TIME TO DEPARTMENT NOTICE OF AN UNEMPLOYMENT INSURANCE CLAIM AND OF THE TIME TO PROVIDE REQUESTED WAGE INFORMATION TO THE DEPARTMENT.

2. What is the subject of the proposed rule?

Extension of the time frame in which employers must respond to the Arkansas Department of Workforce Services' notice of an initial or additional Unemployment Insurance claim **from** seven (7) days to ten (10) days and to extend time frame in which employers must respond to the Arkansas Department of Workforce Services to provide wage information as requested for an Interstate Wage-Combining claim from seven (7) days to ten (10) days.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes _____ No X

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes _____ No X

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No X

5. Is this a new rule? Yes _____ No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation. Arkansas Code §§ 11-10-306, 11-10-307, 11-10-313, and 11-10-318, 11-10-521, 11-10-522, 11-10-703, 11-10-707,.

7. What is the purpose of this proposed rule? Why is it necessary?

Extension of the time frame in which employers must respond to the Arkansas Department of Workforce Services' notice of an initial or additional Unemployment Insurance claim **from** seven (7) days to ten (10) days and to extend time frame in which employers must respond to the Arkansas Department of Workforce Services to provide wage information as requested for an Interstate Wage-Combining claim from seven (7) days to ten (10) days for the purpose of improving timely reporting by employers.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). http:// www.sos.arkansas.gov/rulesRegs

9. Will a public hearing be held on this proposed rule? Yes X No _____
If yes, please complete the following:

Date: October 22, 2012

Time: 9:00 a.m.

Place Room 236, Department of Workforce Services, #2 Capitol Mall, Little Rock, Arkansas

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
November 1, 2012

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
December 15, 2012

12. Do you expect this rule to be controversial? Yes _____ No X If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. U/K

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT DEPARTMENT OF WORKFORCE SERVICES
DIVISION _____
PERSON COMPLETING THIS STATEMENT SHARON S. WALKER
TELEPHONE NO. 320-5642 FAX NO. 683-
3510 EMAIL: Sharon.Walker@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE EXTENSION OF RESPONSE TIME TO DEPARTMENT NOTICE OF AN UNEMPLOYMENT INSURANCE CLAIM AND OF THE TIME TO PROVIDE REQUESTED WAGE INFORMATION TO THE DEPARTMENT.

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X

2. Does this proposed, amended, or repealed rule affect small businesses?
Yes _____ No X

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.
N/A

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

Next Fiscal Year

General Revenue -0-
Federal Funds -0-
Cash Funds -0-
Special Revenue -0-
Other (Identify) -0-
Total -0-

General Revenue -0-
Federal Funds -0-
Cash Funds -0-
Special Revenue -0-
Other (Identify) -0-
Total -0-

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ -0-

\$ -0-

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

Next Fiscal Year

\$ -0-

\$ -0-

SUMMARY OF THE RULE

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Regulation No. 15 governs Notice Of Claims Filed and Benefits Charged, Employer Response, and Noncharge with respect to unemployment insurance claims.

Notice of an unemployment insurance claim filing shall be mailed or otherwise provided by the Department of Workforce Services to the employing unit known to the claimant as his last employer. The last employer shall have ten (10) days from the date the notice was mailed or otherwise provided by the Department of Workforce Services to file its response. If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the ten (10) day period as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.

In addition, an employer, upon request, shall furnish to the Department of Workforce Services wage information for workers filing claims in another state under an approved Interstate Wage-Combining Plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report. An employer shall furnish such information within ten (10) days from the date the request is mailed. Whenever an employer fails to provide wage information as requested for an Interstate Wage-Combining claim within the ten (10) days from the time the request is mailed, the Department will establish the claimant's wage credits on the basis of the claimant's written statement of wages supplemented by other available evidence.

CURRENT RULE

NOTICE OF CLAIMS FILED AND BENEFITS CHARGED, EMPLOYER RESPONSE, AND NONCHARGE RIGHTS

Previous Regulation Next Regulation

This regulation is hereby amended, promulgated and adopted by the Director of the Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-521, 11-10-522, 11-10-703, 11-10-707, 11-10-318, and 11-10-313 to read as follows:

- (A) Notice of an initial or additional claim filed shall be mailed or otherwise provided by the Department of Workforce Services to the employing unit known to the claimant as his last employer. This notice shall request that the employer immediately furnish pertinent information to the Department of Workforce Services. The last employer shall have seven (7) days from the date the notice was mailed or otherwise provided by the Department of Workforce Services to file his response. If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the seven-day period as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.
- (B) Notice to base period employer of an initial claim filed shall be mailed or otherwise provided to each affected base period employer who is not also a last employer. This notice shall request that the employer furnish the Department of Workforce Services pertinent information. The requested information shall be filed with the Agency immediately but no later than fifteen (15) days after the date the notice was originally mailed or otherwise provided by the Department of Workforce Services. If mailed, the response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the fifteen (15) day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.
- (C) Upon commencement of a labor dispute, the affected employer shall, upon request, promptly furnish the nearest Department of Workforce Services office a list, in duplicate, showing the names and Social Security numbers of the unemployed workers, and the last day of employment for each worker, with the further information that the unemployment is due to a labor dispute at the factory, establishment, or other premises where the workers were last employed.
- (D) An employer, upon request, shall furnish to the Department of Workforce Services wage information for workers filing claims in another state under an approved Interstate Wage-Combining Plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report. An employer shall furnish such information within seven (7) days from the date the request is mailed. Whenever an employer fails to provide wage information as requested for an Interstate Wage-Combining claim within the required seven (7) days from the time the request is mailed, the Department of Workforce Services will establish the claimant's wage credits on the basis of the claimant's written statement of wages received for such employment with said employer supplemented by such other evidence as may be available and satisfactory to the Department of Workforce Services. Except, as provided under Arkansas Code 11-10-106 of the Arkansas Department of Workforce Services Law, if it is determined that the wage information supplied by the claimant is erroneous, no penalty shall be imposed on the claimant. A report of wages made on the basis of the claimant's written statement shall be adjusted, if necessary, upon receipt of information from an employer and such adjusted report will be delivered to the paying state for the appropriate adjustment of further benefits, if any, payable to the claimant under the approved Interstate Wage-Combining Plan on the basis of such wage credits.
- (E) Except as hereinafter provided, a last employer shall not be eligible for the noncharge provisions authorized in subsection 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in compliance with paragraph (A) of this regulation. It shall be assumed that any last employer who fails to respond in compliance with paragraph (A) of this regulation agrees that the reason for separation as given by the claimant is correct; his failure to respond shall not affect his noncharge rights if the reason for separation given by the claimant would have otherwise resulted in the non-

charging of benefits to the employer's account. His failure to timely respond, however, shall constitute a waiver of any right he may have to protest charges to his experience rating account of benefits paid as a result of such nonmonetary determination.

- (F) An affected base period employer not also a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in accordance with paragraph (B) of this regulation. In addition, any employer seeking to qualify for noncharging under the Part Time Proviso of Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law shall provide such information on wages and hours of work as the Director of the Arkansas Department of Workforce Services shall request.
- (G) For purposes of this Regulation 15, Third Party (Agent) Representatives under contract to respond to notices to last and/or base period employers are required to observe the time periods for response and, in addition, must provide factual information to the local office requesting such response. The response must contain factual information sufficient to determine the basis of the separation of the former employee from the employer. Without such factual information, such response may be considered as untimely and the employer would not be entitled to protest charges which may result.

This amended regulation shall take effect and be in full force on and after May 1, 2005.

PROPOSED RULE

NOTICE OF CLAIMS FILED AND BENEFITS CHARGED, EMPLOYER RESPONSE, AND NONCHARGE RIGHTS

Previous Regulation Next Regulation

This regulation is hereby amended, promulgated and adopted by the Director of the Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-521, 11-10-522, 11-10-703, 11-10-707, 11-10-318, and 11-10-313 to read as follows:

- (A) Notice of an initial or additional claim filed shall be mailed or otherwise provided by the Department of Workforce Services to the employing unit known to the claimant as his last employer. This notice shall request that the employer immediately furnish pertinent information to the Department of Workforce Services. The last employer shall have ten (10) days from the date the notice was mailed or otherwise provided by the Department of Workforce Services to file his response. If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the ten-day period as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.
- (B) Notice to base period employer of an initial claim filed shall be mailed or otherwise provided to each affected base period employer who is not also a last employer. This notice shall request that the employer furnish the Department of Workforce Services pertinent information. The requested information shall be filed with the Agency immediately but no later than fifteen (15) days after the date the notice was originally mailed or otherwise provided by the Department of Workforce Services. If mailed, the response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the fifteen (15) day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.
- (C) Upon commencement of a labor dispute, the affected employer shall, upon request, promptly furnish the nearest Department of Workforce Services office a list, in duplicate, showing the names and Social Security numbers of the unemployed workers, and the last day of employment for each worker, with the further information that the unemployment is due to a labor dispute at the factory, establishment, or other premises where the workers were last employed.
- (D) An employer, upon request, shall furnish to the Department of Workforce Services wage information for workers filing claims in another state under an approved Interstate Wage-Combining Plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report. An employer shall furnish such information within ten (10) days from the date the request is mailed. Whenever an employer fails to provide wage information as requested for an Interstate Wage-Combining claim within the ten (10) days from the time the request is mailed, the Department of Workforce Services will establish the claimant's wage credits on the basis of the claimant's written statement of wages received for such employment with said employer supplemented by such other evidence as may be available and satisfactory to the Department of Workforce Services. Except, as provided under Arkansas Code 11-10-106 of the Arkansas Department of Workforce Services Law, if it is determined that the wage information supplied by the claimant is erroneous, no penalty shall be imposed on the claimant. A report of wages made on the basis of the claimant's written statement shall be adjusted, if necessary, upon receipt of information from an employer and such adjusted report will be delivered to the paying state for the appropriate adjustment of further benefits, if any, payable to the claimant under the approved Interstate Wage-Combining Plan on the basis of such wage credits.
- (E) Except as hereinafter provided, a last employer shall not be eligible for the noncharge provisions authorized in subsection 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in compliance with paragraph (A) of this regulation. It shall be assumed that any last employer who fails to respond in compliance with paragraph (A) of this regulation agrees that the reason for separation as given by the claimant is correct; his failure to respond shall not affect his noncharge rights if the reason for separation given by the claimant would have otherwise resulted in the non-

charging of benefits to the employer's account. His failure to timely respond, however, shall constitute a waiver of any right he may have to protest charges to his experience rating account of benefits paid as a result of such nonmonetary determination.

- (F) An affected base period employer not also a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in accordance with paragraph (B) of this regulation. In addition, any employer seeking to qualify for noncharging under the Part Time Proviso of Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law shall provide such information on wages and hours of work as the Director of the Arkansas Department of Workforce Services shall request.
- (G) For purposes of this Regulation 15, Third Party (Agent) Representatives under contract to respond to notices to last and/or base period employers are required to observe the time periods for response and, in addition, must provide factual information to the local office requesting such response. The response must contain factual information sufficient to determine the basis of the separation of the former employee from the employer. Without such factual information, such response may be considered as untimely and the employer would not be entitled to protest charges which may result.

This amended regulation shall take effect and be in full force on and after December 15, 2012.

MARKUP OF THE RULE

NOTICE OF CLAIMS FILED AND BENEFITS CHARGED, EMPLOYER RESPONSE, AND NONCHARGE RIGHTS

Previous Regulation Next Regulation

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- (A) Notice of an initial or additional claim filed shall be mailed or otherwise provided by the Department of Workforce Services to the employing unit known to the claimant as his last employer. This notice shall request that the employer immediately furnish pertinent information to the Department of Workforce Services. The last employer shall have ~~seven (7)~~ ten (10) days from the date the notice was mailed or otherwise provided by the Department of Workforce Services to file his response. If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the ~~seven~~-ten-day period as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.
- (B) Notice to base period employer of an initial claim filed shall be mailed or otherwise provided to each affected base period employer who is not also a last employer. This notice shall request that the employer furnish the Department of Workforce Services pertinent information. The requested information shall be filed with the Agency immediately but no later than fifteen (15) days after the date the notice was originally mailed or otherwise provided by the Department of Workforce Services. If mailed, the response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the fifteen (15) day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.
- (C) Upon commencement of a labor dispute, the affected employer shall, upon request, promptly furnish the nearest Department of Workforce Services office a list, in duplicate, showing the names and Social Security numbers of the unemployed workers, and the last day of employment for each worker, with the further information that the unemployment is due to a labor dispute at the factory, establishment, or other premises where the workers were last employed.
- (D) An employer, upon request, shall furnish to the Department of Workforce Services wage information for workers filing claims in another state under an approved Interstate Wage-Combining Plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report. An employer shall furnish such information within ~~seven (7)~~ ten (10) days from the date the request is mailed. Whenever an employer fails to provide wage information as requested for an Interstate Wage-Combining claim within the ~~seven (7)~~ ten (10) days from the time the request is mailed, the Department of Workforce Services will establish the claimant's wage credits on the basis of the claimant's written statement of wages received for such employment with said employer supplemented by such other evidence as may be available and satisfactory to the Department of Workforce Services. Except, as provided under Arkansas Code 11-10-106 of the Arkansas Department of Workforce Services Law, if it is determined that the wage information supplied by the claimant is erroneous, no penalty shall be imposed on the claimant. A report of wages made on the basis of the claimant's written statement shall be adjusted, if necessary, upon receipt of information from an employer and such adjusted report will be delivered to the paying state for the appropriate adjustment of further benefits, if any, payable to the claimant under the approved Interstate Wage-Combining Plan on the basis of such wage credits.
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charging of benefits to the employer's account. His failure to timely respond, however, shall constitute a waiver of any right he may have to protest charges to his experience rating account of benefits paid as a result of such nonmonetary determination.

- (F) An affected base period employer not also a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in accordance with paragraph (B) of this regulation. In addition, any employer seeking to qualify for noncharging under the Part Time Proviso of Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law shall provide such information on wages and hours of work as the Director of the Arkansas Department of Workforce Services shall request.
- (G) For purposes of this Regulation 15, Third Party (Agent) Representatives under contract to respond to notices to last and/or base period employers are required to observe the time periods for response and, in addition, must provide factual information to the local office requesting such response. The response must contain factual information sufficient to determine the basis of the separation of the former employee from the employer. Without such factual information, such response may be considered as untimely and the employer would not be entitled to protest charges which may result.

This amended regulation shall take effect and be in full force on and after ~~May 1, 2005~~ December 15, 2012.

PROOF OF PUBLICATION*

(* Proof of Publication will be provided following publication)