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John Bel Edwards, Governor
Ava Dejoie, Secretary

Office of the Secretary

June 9, 2020

Senator Patrick Page Cortez
President of the Senate
P.O. Box 94183
Baton Rouge, LA 70804

Via Email to: APA.SenatePresident@legis.la.gov

Electronic Mail - Delivery Receipt Requested

Dear Senator Cortez:

The Louisiana Workforce Commission has initiated the rulemaking process to promulgate a rule relative to requiring employers to provide notification of the availability of unemployment insurance benefits at the time on separation, as required by the Families First Coronavirus Response Act, Pub. L. 116-127, more specifically, Division D of the Emergency Unemployment Insurance Stabilization and Access Act of 2020. The proposed rule establishes the requirement for an employer to provide notification of the availability of the benefits, and details what the notification must include. This proposed rule is being promulgated to continue the provisions of the April 23, 2020 Emergency Rule. The following documents are contained in this packet:

- Notice of Intent
- Proposed Rule
- Family Impact Statement
- Poverty Impact Statement
- Small Business Analysis
- Provider Impact Statement
- Solicitation of Comments
- Public Hearing Request Instructions
- Fiscal and Economic Impact Statement
- Copy of Division D of the Emergency Unemployment Insurance Stabilization and Access Act of 2020

The Louisiana Workforce Commission is submitting the Notice of Intent to the Office of the State Register today for publication in the June 20, 2020 edition of the *Louisiana Register*. In the event you have any questions, please contact me directly at adejoie@lwc.la.gov or 225.342.3001.

Yours truly,

A handwritten signature in blue ink, appearing to read "Ava M. Dejoie".

Ava M. Dejoie
Secretary

cc: Chair, House Labor and Industrial Relations Committee Via Email: APA.H-LIR@legis.la.gov
Chair, Senate Labor and Industrial Relations Committee Via Email: APA.S-L&IR@legis.la.gov
Speaker, House of Representatives Via Email: APA.HouseSpeaker@legis.la.gov
Editor, *Louisiana Register* Via Email: Reg.Submission@la.gov

NOTICE OF INTENT

Louisiana Workforce Commission

Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Individual Employee at the Time of Separation (LAC 40:IV.381)

Under the authority of and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., specifically R.S. 49:953(C)(1), and through the authority granted in R.S. 36:304, notice is hereby given that the Workforce Commission proposes to adopt LAC 40:IV.381. The proposed Rule sets forth the requirement that employers notify employees of the availability of unemployment insurance benefits upon separation, and details the information that must be included in the notification, as well as the methods of notification. The proposed Rule also advises employers of where a form that fulfills the requirements can be found on the Workforce Commission's website. The proposed Rule is one of the requirements for the receipt of funding by the Louisiana Workforce Commission under the Families First Coronavirus Response Act, Pub. L. 116-127, more specifically, Division D of the Emergency Unemployment Insurance Stabilization and Access Act of 2020. The proposed Rule is being promulgated in order to continue the provisions of the April 23, 2020 Emergency Rule.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§381. Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Individual Employee at the Time of Separation

A. Pursuant to R.S. 23:1621, employers are required to provide notification of the availability of Unemployment Insurance Benefits (UI). This Rule prescribes an additional requirement that employers shall notify each individual employee at the time of separation from employment of the following:

1. Employees may file a UI claim in the first week that employment stops or work hours are reduced.
2. Employees shall be informed that a UI claim may be filed by phone or online stating:
 - a. To file a UI claim by phone, call: 1-866-783-5567.
 - b. To file a UI claim online, visit: www.louisianaworks.net/hire.
 - c. If you have questions about the status of your UI claim, you can call the LWC at 866-783-5567 or visit www.louisianaworks.net/hire.
3. Employees shall be given the Louisiana Workforce Commission's toll free phone number and web address for filing and assistance with unemployment insurance claims.

4. Employees shall be informed of the need to provide the Louisiana Workforce Commission with the following information in order for the claim to be processed:

- a. full legal name;
- b. social security number; and
- c. authorization to work (if not a U.S. Citizen or resident).

B. Employers can find a form containing this required information at www.laworks.net/Downloads.

C. Employers shall convey this information at the time of separation. This information shall be provided to employees in writing either via flyer, letter, email, or text message.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1591, R.S. 23:1472(19)(a)(iii), R.S. 23:1621, and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

Family Impact Statement

Implementation of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Poverty Impact Statement

This Rule will have no known or foreseeable impact on any child, individual or family as described in R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:956.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has been considered in accordance with R.S. 49:965.6, and it is estimated that the Rule will have negligible impact on small businesses as defined in the Regulatory Flexibility Act. Therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

This Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments via U.S. Mail to Assistant Secretary Robert Wooley, UI-Administration, P.O. Box 94094, Baton Rouge, LA 70804-9094. All written comments are required to be signed by the person submitting the comments, dated, and received on or before 4:30 p.m. on July 10, 2020.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2)(a) for oral presentation, argument, or public hearing must be in writing and received by the Louisiana Workforce Commission no later than 4:30 p.m. on July 10, 2020. The request should be submitted by U.S. mail to the Louisiana Workforce Commission, ATTN: Robert Wooley, Post Office Box 94094, Baton Rouge, LA 70804-9094.



Ava Dejoie
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person
Preparing
Statement: Danelle Gilkes Dept.: Louisiana Workforce Commission

Phone: (225) 342-3531 Office: Off. of Unemployment Insurance Admin.

Return
Address: P.O. Box 94094 Rule
Title: Employer Requirement to Provide
Baton Rouge, LA ~~Notification of the Availability of UI Benefits~~

70804-9094 Date Rule
Takes Effect: Upon Promulgation

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no fiscal impact on state or local governmental units, other than the publication fees associated with the proposed rule change.

In accordance with the Emergency Unemployment Insurance Stabilization and Access Act of 2020, the proposed rule requires employers to notify employees upon separation that they may file a claim for unemployment benefits. This notification may be provided to employees in writing either via flyer, letter, email, or text message.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed changes will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The cost to businesses to implement the notification requirement should be minimal given that they can notify separated employees through electronic means, such as email or text. However, to the extent that more separated employees are approved for unemployment benefits as a result of this notification, employer's unemployment insurance premiums will likely increase.

There may be an economic benefit to separated employees that file an unemployment claim as a result of the notification who may not have applied otherwise. However, the amount of this benefit is not quantifiable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes have no known effect on competition and employment.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Typed Name & Title of Agency Head or Designee

Date of Signature

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule sets forth the requirement for employers to notify employees of the availability of unemployment insurance benefits at the time of separation. The proposed rule includes the acceptable methods of notification and the required content of the notification, along with the location of a notice generated by LWC that can be used by employers.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The proposed rule is one of the requirements for the receipt of funding by the Louisiana Workforce Commission under the Families First Coronavirus Response Act, Pub. L. 116-127, more specifically, Division D of the Emergency Unemployment Insurance Stabilization and Access Act of 2020.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule will not result in an increase in the expenditure of state funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase? **This is not applicable.**

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 20	FY 21	FY 22
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	230	120	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
TOTAL	230	120	0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule change will require the Louisiana Workforce Commission to publish the proposed and final rules in the state register, resulting in a one-time expense of \$230 in FY 20 and a one-time expense of \$120 in FY 21. There will be no additional expenditures or cost savings for LWC or other state or local governmental units.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 20	FY 21	FY 22
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated	0	0	0
Federal Funds	230	120	0
Other (Specify)	0	0	0
TOTAL	230	120	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, the LWC has sufficient funds to implement the proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No additional costs or savings to local governmental units is anticipated by implementation of the proposed rule.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

This is not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 20	FY 21	FY 22
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated Funds*	0	0	0
Federal Funds	0	0	0
Local Funds	0	0	0
TOTAL	0	0	0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.
This is not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

All entities that provide covered employment as defined by La. R.S. 23:1472(12) will be required to provide a notice of the availability of unemployment insurance benefits to separated employees. LWC provides the notification form on its website. The cost to implement the requirement should be minimal considering the separated employee can be notified via flyer, email, letter, or text message.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule will have no known impact on receipts and/or income of persons, small businesses, or non-governmental groups. Unemployed persons may be more likely to file for unemployment insurance benefits because of the required notification, but the impact is not clearly quantifiable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule will have no known impact on competition and employment.

DIVISION <<NOTE: Emergency Unemployment Insurance Stabilization and Access Act of 2020.>> D--EMERGENCY UNEMPLOYMENT INSURANCE STABILIZATION AND ACCESS ACT OF 2020
SEC. <<NOTE: 42 USC 1305 note.>> 4101. SHORT TITLE.

This division may be cited as the ``Emergency Unemployment Insurance Stabilization and Access Act of 2020``.
SEC. 4102. EMERGENCY TRANSFERS FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION.

(a) In General.--Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

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``Emergency Transfers in Fiscal Year 2020 for Administration

``(h) (1) (A) <<NOTE: Grants.>> In addition to any other amounts, the Secretary of Labor shall provide for the making of emergency administration grants in fiscal year 2020 to the accounts of the States in the Unemployment Trust Fund, in accordance with succeeding provisions of this subsection.

``(B) <<NOTE: Determination.>> The amount of an emergency administration grant with respect to a State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying \$1,000,000,000 by the same ratio as would apply under subsection (a) (2) (B) for purposes of determining such State's share of any excess amount (as described in subsection (a) (1)) that would have been subject to transfer to State accounts, as of October 1, 2019, under the provisions of subsection (a).

``(C) <<NOTE: Certifications.>> Of the emergency administration grant determined under subparagraph (B) with respect to a State--

``(i) <<NOTE: Deadline.>> not later than 60 days after the date of enactment of this subsection, 50 percent shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (2); and

``(ii) only with respect to a State in which the number of unemployment compensation claims has increased by at least 10 percent over the same quarter in the previous calendar year, the remainder shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (3).

``(2) The requirements of this paragraph with respect to a State are the following:

``(A) <<NOTE: Requirements. Notification.>> The State requires employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment. Such notification may be based on model notification language issued by the Secretary of Labor.

``(B) The State ensures that applications for unemployment compensation, and assistance with the application process, are accessible in at least two of the following: in-person, by phone, or online.

``(C) The State notifies applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provides information about steps the applicant can take to ensure the successful processing of the application.

``(3) <<NOTE: Requirements.>> The requirements of this paragraph with respect to a State are the following:

“(A) The State has expressed its commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims.

“(B) The State has demonstrated steps it has taken or will take to ease eligibility requirements and access to unemployment compensation for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

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“(4) Any amount transferred to the account of a State under this subsection may be used by such State only for the administration of its unemployment compensation law, including by taking such steps as may be necessary to ensure adequate resources in periods of high demand.

“(5) <<NOTE: Reports.>> Not later than 1 year after the date of enactment of the Emergency Unemployment Insurance Stabilization and Access Act of 2020, each State receiving emergency administration grant funding under paragraph (1)(C)(i) shall submit to the Secretary of Labor, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a report that includes--

“(A) <<NOTE: Analysis.>> an analysis of the reciprocity rate for unemployment compensation in the State as such rate has changed over time;

“(B) a description of steps the State intends to take to increase such reciprocity rate.

“(6)(A) Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of making the transfers described in paragraph (1)(C).

“(B) There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.”.

(b) <<NOTE: 26 USC 3304 note.>> Emergency Flexibility.-- Notwithstanding any other law, if a State modifies its unemployment compensation law and policies with respect to work search, waiting week, good cause, or employer experience rating on an emergency temporary basis as needed to respond to the spread of COVID-19, such modifications shall be disregarded for the purposes of applying section 303 of the Social Security Act and section 3304 of the Internal Revenue Code of 1986 to such State law.

(c) <<NOTE: 42 USC 1103 note.>> Regulations.--The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).
SEC. 4103. <<NOTE: Time period.>> TEMPORARY ASSISTANCE FOR STATES WITH ADVANCES.

Section 1202(b)(10)(A) of the Social Security Act (42 U.S.C. 1322(b)(10)(A)) is amended by striking “beginning on the date of enactment of this paragraph and ending on December 31, 2010” and inserting “beginning on the date of enactment of the Emergency Unemployment Insurance Stabilization and Access Act of 2020 and ending on December 31, 2020”.

SEC. 4104. <<NOTE: 26 USC 3306 note.>> TECHNICAL ASSISTANCE AND GUIDANCE FOR SHORT-TIME COMPENSATION PROGRAMS.

The Secretary of Labor shall assist States in establishing, implementing, and improving the employer awareness of short-time compensation programs (as defined in section 3306(v) of the Internal

Revenue Code of 1986) to help avert layoffs, including by providing technical assistance and guidance.

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SEC. 4105. <<NOTE: 26 USC 3304 note.>> FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

(a) <<NOTE: Applicability.>> In General.--In the case of sharable extended compensation and sharable regular compensation paid for weeks of unemployment beginning after the date of the enactment of this section and before December 31, 2020 (and only with respect to States that receive emergency administration grant funding under clauses (i) and (ii) of section 903(h)(1)(C) of the Social Security Act (42 U.S.C. 1102(h)(1)(C))), section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall be applied by substituting "100 percent of" for "one-half of".

(b) Temporary Federal Matching for the First Week of Extended Benefits for States With No Waiting Week.--With respect to weeks of unemployment beginning after the date of the enactment of this Act and ending on or before December 31, 2020, subparagraph (B) of section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall not apply.

(c) Definitions.--For purposes of this section--

(1) the terms "sharable extended compensation" and "sharable regular compensation" have the respective meanings given such terms under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term "week" has the meaning given such term under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(d) Regulations.--The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section.