



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee
FROM: Division Manager - Mike Nugent
DATE: September 17, 2013
SUBJECT: Department of Labor

IDAPA 09.01.30 - Rules Pertaining To The Unemployment Insurance Benefit Administration Rules (Docket No. 09-0130-1301)

IDAPA 09.01.35 - Rules Pertaining To The Unemployment Insurance Tax Administration Rules (Docket No. 09-0135-1301)

The Department of Labor is proposing to promulgate two dockets of rules and four proposed rules total relating to the unemployment insurance program. The first proposed rule is proposing to repeal the tel-a-claim reporting method for unemployment insurance benefit claimants. The Department indicates that the current tel-a-claim system cannot accommodate enhanced work search reporting requirements the Department is requiring to reduce benefit fraud and lower employer taxes. Because of reduced federal funding, the Department indicates it does not have the money to build a new tel-a-claim system. Instead, enhanced work search reporting requirements will be added to the Department's existing internet-based reporting system. This internet-based system can be accessed from personal computers or computers with public access such as those in public libraries or in the Department's twenty-five local offices.

The second proposed rule would amend the current "reasonable length of time" job attached classification standard with a maximum twelve-week standard. This proposed rule change will require benefit claimants to look for work and find new employment sooner than waiting for their former employers to rehire them if their temporary layoff period will exceed twelve weeks. Of the surrounding states, Montana is the only one without a limit on the rehire period. The other surrounding states range from four weeks in Oregon to twelve weeks in Wyoming.

The third proposed rule would require employers to report contributions online unless a waiver is granted by the Department. Waivers would be granted to employers if the online filing requirement poses a significant burden. The Department currently allows the reporting of contributions by either paper or online filing. The online reporting of employer contributions would allow the Department to process quarterly reports from employers more quickly and more cost effectively. The online reporting system should correct errors employers typically make in paper reports. This would help employers avoid thousands of dollars in fines for reporting less quarterly taxes by the reporting deadline than the employer legally owes.

The fourth proposed rule would revise the current "independently established" prong of the independent contractor test for unemployment insurance tax purposes with a more straightforward, common sense economic

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

reality test. The current test has fifteen factors and is complicated to enforce and gives employers probably not the best guidance as to which workers may or may not be independent contractors. The economic reality test is currently used by the U.S. Department of Labor and the Social Security Administration and focuses on whether workers are economically dependent upon the business to which they render services.

It appears that all four sets of proposed rules have been promulgated within the scope of statutory authority granted to the Department of Labor.

cc: Department of Labor

Joshua McKenna & Michael Johnson