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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF UNEMPLOYMENT INSURANCE**

46 N.J.R. 1408(a)

Proposed Amendment: *N.J.A.C. 12:17-4.3*

[Click here to view Interested Persons Statement](#)

Reporting Requirements; Eliminating References to Claimants' Receipt of Written Certifications

Authorized By: Harold J. Wirths, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 43:21-7.g.*

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-091.

A **public hearing** on the proposed amendment will be held on the following date at the following time and location:

Tuesday, July 8, 2014
10:00 A.M. to 12:00 Noon
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
Second Floor Large Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by August 15, 2014, to:

David Fish, Regulatory Officer
Office of Legal and Regulatory Services
Department of Labor and Workforce Development
PO Box 110, 13th Floor
Trenton, New Jersey 08625-0110

Fax: (609) 292-8246

The agency proposal follows:

Summary

The Department of Labor and Workforce Development (Department) is proposing amendments to *N.J.A.C. 12:17-4.3*, which would eliminate references within that section to receipt by unemployment compensation claimants of bi-weekly written "certifications," and would replace those references with references to receipt by unemployment compensation claimants of a single set of written instructions. In the past, when unemployment compensation claimants were paid primarily through the issuance of bi-weekly benefit checks, attached to each were written "certifications," instructing claimants how to go about continuing to claim benefits, the references throughout *N.J.A.C. 12:17-4.3* to written "certifications" were appropriate. However, now unemployment compensation claimants either elect to receive benefits by direct deposit or are automatically issued a prepaid debit card. This change in policy and practice was effectuated, for among other reasons, to save the State the considerable and unnecessary expense of physically producing and mailing checks to claimants. In the same vein, the Department has ceased the mailing to claimants of bi-weekly "certifications," which as indicated above, used to accompany benefit payment checks. Instead, upon the [page=1409] initial filing of an unemployment compensation claim, each claimant is mailed a form which contains written instructions as to how and when to claim benefits. Thus, it is important for the sake of clarity and consistency that the rules of the Department be updated to reflect the current practice of the Department and that, accordingly, all references to written "certifications" throughout *N.J.A.C. 12:17-4.3* be replaced with references to the single set of written instructions.

A technical amendment is also proposed, whereby the word "subsection" would be replaced with the word "section" within existing *N.J.A.C. 12:17-4.3(b)*, recodified as *N.J.A.C. 12:17-4.3(c)*. The sentence within which the word "subsection" is currently used contains a definition of the term "designated benefit period," which is, in fact, used throughout the "section" and not just the "subsection," thus necessitating the proposed amendment.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The proposed amendments would have a positive social impact in that they would eliminate any possible confusion among unemployment compensation claimants and among those within the Department of Labor and Workforce Development who adjudicate unemployment compensation benefit claims as to the procedure by which claimants are, in fact, notified by the Division of Unemployment Insurance of the manner in which they are required to claim benefits.

Economic Impact

The proposed amendments would have a positive economic impact upon unemployment compensation claimants and upon the Department in that, but for the proposed amendments, claimants and Department employees may misunderstand the procedure by which unemployment compensation claimants are notified of the manner in which they are required to claim benefits. But for the proposed amendments, such misunderstandings might then lead to the incurring of unnecessary expense by claimants who might pursue administrative appeals on the basis that they had not received written "certifications" (which are no longer issued) and might also lead to the unnecessary expenditure of valuable Department resources to hear those appeals.

Federal Standards Statement

The proposed amendments do not exceed standards or requirements imposed by Federal law. Specifically, the proposed amendments are consistent with the Federal Unemployment Tax Act, *26 U.S.C. §§ 3301 et seq.*, and the regulations promulgated in accordance thereunder. Consequently, a Federal standards analysis is not required.

Jobs Impact

The proposed amendments would have no impact on either the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments would have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments would impose no reporting, recordkeeping, or compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. Rather, the proposed amendments would simply ensure consistency between Department rules and Department practice relative to the means by which claimants are notified of the procedure for claiming benefits. That consistency between the rules and practice and the resulting clarity will inure to the benefit of all concerned, including claimants, Department employees, and employers, large and small.

Housing Affordability Impact Analysis

The proposed amendments would have no impact on affordable housing in New Jersey and would not evoke a change in the average costs associated with housing because the proposed amendments pertain to reporting requirements for claiming unemployment compensation benefits and have nothing to do with housing.

Smart Growth Development Impact Analysis

The proposed amendments would have no impact on smart growth and would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments pertain to reporting requirements for claiming unemployment compensation benefits and have nothing to do with housing.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:17-4.3 Reporting requirements for claiming completed weeks of unemployment benefits, employment services appointments, and other appointments

(a) (No change.)

(b) A claimant shall be issued written instructions, which shall indicate when and how the individual is to claim benefits, including when and how the individual is to claim continued benefits.

[(b)] **(c)** Reporting by telephone to claim continued benefits requires the claimant to telephone the "State of New Jersey Unemployment Certification System" to claim a completed, designated, benefit period as indicated on the [certification] **written instructions referred to in (b) above**. Reporting via an Internet application means on the web form prescribed by the Division. An individual shall be ineligible for benefits unless the claimant completes a certification telephone call or an Internet application during the assigned week as directed by the Division, or within 21 calendar days of the last day of the designated benefit period [indicated on the certification]. For the purposes of this [subsection] **section**, a "designated benefit period" is the two consecutive calendar weeks that can be claimed for payment and which ends on the Saturday of the second week.

[(c)] **(d)** When a claimant who reports by telephone, or by Internet application, and who, at the completion of the call, is directed to report to the Division in person [or to mail in the certification], he or she shall be ineligible for benefits unless he or she reports in person[, mails in the certification,] or otherwise contacts the office within the 21 calendar days following the attempt to claim benefits by telephone or shows good cause as defined in *N.J.A.C. 12:17-4.1* for failing to do so.

Recodify existing (d)-(f) as **(e)-(g)** (No change in text.)

[(g)] **(h)** A claimant who fails to comply with reporting requirements by any method directed by the Division shall report to the Division to claim benefits. Unless the claimant has "good cause," as defined in *N.J.A.C. 12:17-4.1*, for failing to report timely by the method directed by the Division, the claimant shall be ineligible for benefits for the designated benefit period [on the certification].