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Lieutenant Governor  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Becky Weimer  
Department of Labor and Workforce Development

**FROM:** April Simpson, Office of the Lieutenant Governor  
465.4081 

**DATE:** June 19, 2019

**RE:** Filed Permanent Regulations: Department of Labor and Workforce Development  
  
Department of Labor and Workforce Development Regulation re: Div. of Employment  
and Training Services (8 AAC 85.75 - .400)

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Attorney General File:	2019200200
Regulation Filed:	6/19/2019
Effective Date:	7/19/2019
Print:	231, October 2019

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached three pages of regulations, dealing with unemployment insurance, are adopted and certified to be a correct copy of the regulation changes that the Department of Labor and Workforce Development adopts under the authority of AS 23.20.045, AS 23.20.085, AS 23.20.165, AS 23.20.225, AS 23.20.330, AS 23.20.340, AS 23.20.350, AS 23.20.375, AS 23.20.376, AS 23.20.378, AS 23.20.385, AS 23.20.382, AS 23.20.520, AS 23.20.530, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 5-12-19

  
\_\_\_\_\_  
Dr. Tamika L. Ledbetter, Commissioner

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on June 19<sup>th</sup>, 20 19, at 10:00am, I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
\_\_\_\_\_  
Kevin Meyer, Lieutenant Governor

Effective: July 19, 2019.

Register: 23, October 2019.

8 AAC 85.075(f) is amended by adding a new subsection to read:

(f) A claimant's monetary determination, and the benefit year established by that determination, will be cancelled at the claimant's request only if:

(1) within the benefit year, the request for cancellation is made in writing, or is made by telephone to the division;

(2) the claimant repays to the division all benefits that have been paid under the determination and that cannot be charged against a new eligible benefit year; [AND]

(3) the claimant has terminated any voluntary quit, discharge for misconduct, or refusal of work disqualification by returning to work under the conditions described in

AS 23.20.379(d) and 8 AAC 85.095(a) and

(4) the claimant has terminated any disqualification for false statement or misrepresentation under the conditions described in AS 23.20.387 (a). *no bold/ul*

(Eff. 11/7/80, Register 76; am 3/27/82, Register 81; am 3/24/85, Register 93; am 4/11/90, Register 114; am 4/28/95, Register 134; am 10/12/97, Register 144; am 11/7/2001, Register 160; am 7/19/2019, Register 231)

Authority:	AS 23.20.045	AS 23.20.340	AS 23.20.376
	AS 23.20.330	AS 23.20.350	AS 23.20.530

8 AAC 85.110(c) is amended to read:

(c) **Benefit Rights of Interstate Claimant.** If a claimant files a claim against a state and

it is determined by the state that the claimant has benefit credits available in the state, claims

*bold/ul* *[WILL]*  
must be filed against that state, but only if benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.

Register 231, October 2019 LABOR AND WORKFORCE DEV.

For the purposes of this subsection, benefit credits will be considered to be unavailable either whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable. **If a claimant files a claim and does not have sufficient benefit credits for a regular base period, as defined in AS 23.20.520, but has sufficient benefit credits for a regular base period in another state the claimant must file with that state.**

(Eff. 10/25/68, Register 27; am 8/20/70, Register 35; am 1/7/78, Register 65; am 3/27/82, Register 81; am 10/12/97, Register 144; am 3/4/2006, Register 177; am 3/25/2007, Register 181; am 3/30/2016, Register 217; am 4/20/2018, Register 226; am 7/19/2019, Register 231)

**Authority:** AS 23.20.045 AS 23.20.330 AS 23.20.375  
AS 23.20.085

8 AAC 85.220(i) is repealed:

(i) Repealed 7/19/2019.

(Eff. 10/25/68, Register 27; am 8/20/70, Register 35; am 1/13/72, Register 40; am 10/29/76, Register 60; am 12/5/79, Register 72; am 11/7/80, Register 76; am 3/24/85, Register 93; am 4/28/95, Register 134; am 10/12/97, Register 144; am 3/3/2001, Register 157; am 3/4/2006, Register 177; am 3/25/2007, Register 181; 7/19/2019, Register 231)

**Authority:** AS 23.20.045 AS 23.20.390 AS 43.23.072

8 AAC 85.353(a) is amended to read:

(a) The requirements of this section apply to any period during which a claimant travels outside <sup>no valid</sup> the customary commutable area <sup>no valid</sup> [THE AREA] in which the claimant resides, unless

the claimant travels while exempted from availability requirements under AS 23.20.378(a) or in connection with training approved under AS 23.20.382. <sup>For purposes of this section,</sup> ~~A customary commutable area is~~ <sup>a claimant</sup> ~~defined as an area where employees customarily commute to and from work each day.~~ <sup>a 3) means</sup>

(Eff. 10/12/97, Register 144; am 3/4/2006, Register 177; am 3/25/2007, Register 181; am 6/16/2010, Register 194; am 7/1/2011, Register 198; 7/19/2019, Register 231)

**Authority:** AS 23.20.045 AS 23.20.378 AS 23.20.385  
AS 23.20.080 AS 23.20.382 AS 23.20.520

8 AAC 85.400(c) is amended to read:

(c) An overpayment of less than \$5 in employee or employer contributions will not be refunded.

(Eff. 11/7/80, Register 76; am 3/27/82, Register 81; am 5/23/2003, Register 166, am 7/19/2019, Register 231)

**Authority:** AS 23.20.045 AS 23.20.165 AS 23.20.225

# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Kevin Meyer  
Lieutenant Governor

**Date:** June 14, 2019

**File No.:** 2019200200

**Thru:** Susan R. Pollard *SRP*  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

**Tel. No.:** 465-3600

**From:** Samantha Weinstein *SW*  
Assistant Attorney General  
Legislation and Regulations Section

**Re:** Department of Labor and Workforce  
Development Regulation re: 8 AAC  
85.75-.400: Div. of Employment and  
Training Services:

The Department of Law has reviewed the attached regulations of the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Labor and Workforce Development after the close of the public comment period. The regulations concern unemployment insurance.

The April 4, 2019, public notice and the May 12, 2019, adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

After conferring with the agency, we made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP:sjw

cc: Honorable Dr. Tamika L. Ledbetter, Commissioner, Department of Labor and Workforce Development  
Patsy Westcott, Director, Division of Employment and Training Services, Department of Labor and Workforce Development  
Becky Weimer, Regulations Contact, Department of Labor and Workforce Development  
Chalise Fisk, Employment Security Analyst, Department of Labor and Workforce Development  
Rebecca Hattan, Assistant Attorney General, Department of Law

NOTICE OF PROPOSED CHANGES ON UNEMPLOYMENT INSURANCE IN THE  
REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE  
DEVELOPMENT

BRIEF DESCRIPTION

The Department of Labor and Workforce Development proposes to change unemployment insurance regulations to restrict withdrawal of a claim with fraud attached, add a new subsection restricting alternate base period claims when eligible for a regular base period claim in another state, define a customary commutable area to more clearly identify travel, and to forgo issuance of unemployment insurance tax refunds to employers under a specified dollar amount.

The Department of Labor and Workforce Development proposes to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with unemployment insurance, including the following:

- (1) 8 AAC 85 is proposed to be changed as follows:
- AAC 85.075 is amended to restrict the withdrawal of a claim with fraud attached.
  - AAC 85.110 is amended to add a new subsection restricting claimants from filing alternate base periods if they are eligible for a regular base period in another state.
  - AAC 85.220 (i) is repealed per HB 76, effective July 1, 2013.
  - AAC 85.353 is amended to define a customary commutable area to more clearly identify travel.
  - AAC 85.400 is amended to allow us to forgo issuing unemployment insurance tax refunds under \$5 to employers as we do with employees.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Chalise Fisk at P.O. Box 115509, Juneau, AK 99811-5509, or [chalise.fisk@alaska.gov](mailto:chalise.fisk@alaska.gov). The comments must be received no later than 4:30 P.M. on May 6, 2019.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Chalise Fisk at (907) 465-8291 or [chalise.fisk@alaska.gov](mailto:chalise.fisk@alaska.gov), no later than May 6, 2019, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Chalise Fisk at (907) 465-8291 or [chalise.fisk@alaska.gov](mailto:chalise.fisk@alaska.gov).

After the public comment period ends, the Department of Labor and Workforce Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.**

**Statutory Authority:** AS 23.20.045, AS 23.20.080, AS 23.20.330, AS 23.20.340, AS 23.20.375, AS 23.20.378

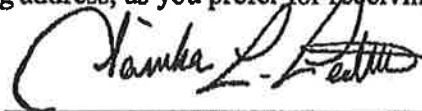
**Statutes Being Implemented, Interpreted, or Made Specific:** AS 23.20.085, AS 23.20.165, AS 23.20.225, AS 23.20.350, AS 23.20.375, AS 23.20.376, AS 23.20.378, AS 23.20.382, AS 23.20.385, AS 23.20.520, AS 23.20.530

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

The Division of Employment and Training Services, Unemployment Insurance (DETS/UI) keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the DETS/UI notices of proposed regulation changes. To be added to or removed from the list, send a request to the DETS/UI at [jnu.uitech@alaska.gov](mailto:jnu.uitech@alaska.gov) giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date:

3/30/19



Dr. Tamika L. Ledbetter  
Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Labor and Workforce Development
2. General subject of regulation: Unemployment Insurance
3. Citation of regulation (may be grouped): 8 AAC 85.075, 8 AAC 85.110, 8 AAC 85.220, 8 AAC 85.353, 8 AAC 85.400
4. Department of Law file number, if any: \_\_\_\_\_
5. Reason for the proposed action:  
  
☐ Compliance with federal law or action (identify): \_\_\_\_\_  
☐ Compliance with new or changed state statute  
☐ Compliance with federal or state court decision (identify): \_\_\_\_\_  
☒ Development of program standards  
☐ Other (identify): \_\_\_\_\_
6. Appropriation/Allocation: Unemployment Insurance component 2276
7. Estimated annual cost to comply with the proposed action to:  
  
A private person: 0.00  
Another state agency: 0.00  
A municipality: 0.00
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2019__	Subsequent Years
Operating Cost	\$ <u>0.00</u>	\$ <u>0.00</u>
Capital Cost	\$ <u>0.00</u>	\$ <u>0.00</u>
1002 Federal receipts	\$ <u>0.00</u>	\$ <u>0.00</u>
1003 General fund match	\$ <u>0.00</u>	\$ <u>0.00</u>
1004 General fund	\$ <u>0.00</u>	\$ <u>0.00</u>
1005 General fund/ program	\$ <u>0.00</u>	\$ <u>0.00</u>
Other (identify)	\$ <u>0.00</u>	\$ <u>0.00</u>

9. The name of the contact person for the regulation:

Name: Chalise Fisk

Title: Employment Security Analyst III

Address: PO Box 115509 Juneau, AK 99811-5509

Telephone: (907) 465-8291

E-mail address: chalise.fisk@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change<sup>7</sup>

☐ Other (identify): \_\_\_\_\_

- 11.

Date: 4/1/19

Prepared by:

Patsy Westcott

Name: Patsy Westcott

Title: Director

Division of Employment and Training Services

Telephone: (907) 465-5543

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

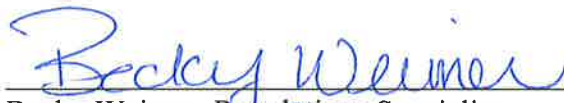
I, Becky Weimer, Regulations Specialist, of the Alaska Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 8 AAC 85.075, 8 AAC 85.110, 8 AAC 85.220, 8 AAC 85.353 and 8 AAC 85.400 relating to unemployment insurance has been given by being

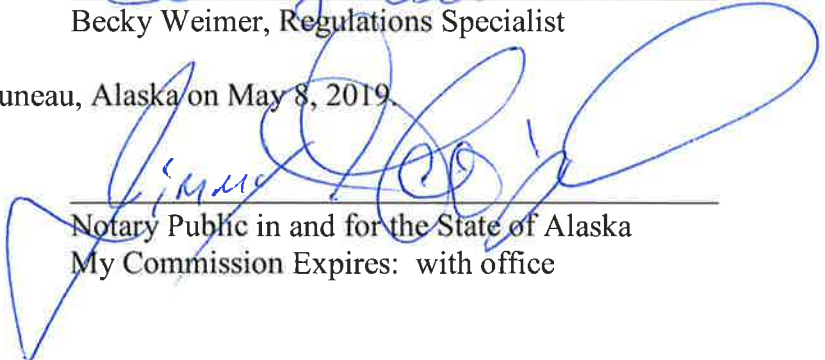
- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

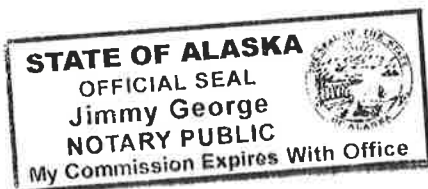
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: May 8, 2019

  
Becky Weimer, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on May 8, 2019.

  
Notary Public in and for the State of Alaska  
My Commission Expires: with office



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT


I, Chalise Fisk, Employment Security Analyst, for the Alaska Department of Labor and Workforce Development, being duly sworn, state the following:

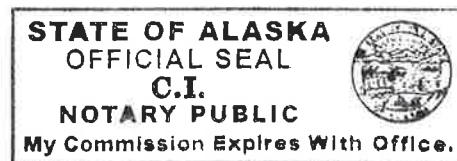
Department of Labor and Workforce Development did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Labor and Workforce Development's regulation on unemployment insurance.

Date: 05/16/2019

  
Chalise Fisk, Employment Security Analyst III

Subscribed and sworn to before me at Bureau, Alaska on May 16, 2019.

  
Notary Public in and for the State of Alaska



# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 391213

ST OF AK/DEPT OF LABOR AND WORKFORCE D  
UNEMPLOYMENT INSURANCE TECHNICAL  
UNIT  
PO BOX 115509

Order#

0001436435

Cost

\$393.42

Product

ADN-Anchorage Daily News

Placement

0300

Position

0301

### STATE OF ALASKA THIRD JUDICIAL DISTRICT

Joleesa Stepetin

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

April 04, 2019

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Joleesa Stepetin

Subscribed and sworn to before me  
this 4th day of April, 2019

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES

STATE OF ALASKA  
NOTARY

PUBLIC

Jada L. Nowling

### NOTICE OF PROPOSED CHANGES ON UNEMPLOYMENT INSURANCE IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

#### BRIEF DESCRIPTION

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Statutory Authority: AS 23.20.045, AS 23.20.080, AS 23.20.330, AS 23.20.340, AS 23.20.375, AS 23.20.378

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