June 23, 2016

Anne FF Rugens
Principal Attorney
Office of Program Policy
Connecticut Labor Department
200 Folly Brook Boulevard
Wethersfield, CT 06109

Re: Comment on Regulation of Department of Labor Concerning Unemployment Compensation - Employer Response, Tracking Number PR 2016-011

Dear Attorney Rugens,

Thank you for the opportunity to submit comments on the above-captioned revisions to the regulations of Connecticut State Agencies. These comments are submitted on behalf of the Connecticut Business & Industry Association ("CBIA"), which represents approximately 10,000 small and large businesses in the state of Connecticut.

Section 31-244-4a. Timeliness of [written] an employer's response to notice of predetermination hearing or in response to Administrator's request for information on a claim.

CBIA supports the department's addition of a "good cause provision" for untimely responses to notices of predetermination hearings. However, we believe the language proposed in this regulation for such a provision would not sufficiently address a variety of circumstances that could result in an untimely filing yet are beyond the control of the employer. As submitted, the proposed regulation would only provide employers relief from charges imposed as a result of the untimely response for good cause attributable to "(1) non-receipt of the notice due to agency error or (2) a disaster made it impossible for an employer or its agent to respond in a timely manner." CBIA will address both of these exceptions:

31-244-4a(a)(1) grants an exception only where agency error results in the employer not receiving the notice. However, this language is silent about situations where an agency error did occur, but the employer did eventually receive the notice - for example, a case where the SIDEs program software malfunctioned in a way that delayed the agency's notice to the employer until a timely response was not possible. As proposed, it seems that the employer would be responsible for the financial consequences of an untimely response despite the fact the agency was the reason the deadline was missed. The ten-calendar-day response requirement provides a relatively limited period of time for an employer to respond, particularly during weeks with holidays. Employers should not be financially penalized for untimely responses that are a result of *any* agency error, not just those that result in the non-receipt of the notice.

31-244-4a(a)(2) grants an exception where "a disaster made it impossible for an employee or its agent to respond in a timely manner." This exception is unclear and overly limiting. Snow storms are commonplace in Connecticut and certainly would not be considered a "disaster" by residents. However, if the governor imposes a highway travel ban for one or more days through executive order, it could result in an employer being unable to respond in a timely fashion. Thus, the term "disaster" should be replaced by language that is more inclusive.

For the above stated reasons, CBIA suggests the good cause provision found in subsection (a) of section 31-244-4a be amended to the following:

> , unless good cause for such late participation is shown. For purposes of this section, "good cause" means (1) agency error, or (2) circumstances beyond the employer's or its agent's control which could not have been reasonably foreseen or prevented.

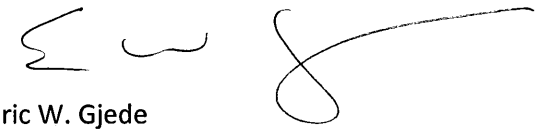
We believe this language will address the circumstances that could legitimately prevent an employer from responding in a timely manner, while staying sufficiently narrow to meet the agency's needs.

Further, the requirement that all written responses to notices for predetermination hearings be submitted by 11:59 on the calendar day preceding the hearing rather than by the hearing date itself also could result in hardships for employers. As noted, employers only have ten calendar days to submit their responses in order to be considered timely. Thus, any predetermination hearing scheduled for a Monday would have to be submitted by 11:59 PM on Sunday evenings. Many businesses that are not open on weekends will be forced to submit their responses by the close of business on Friday. This gives those employers an even shorter period of time for their response to be considered timely. The SIDEs program is meant to offer nearly instantaneous communication about unemployment claims between the labor department and employers. If anything, the adoption of this program provides less of a reason to shorten the time frame for an employer's response to be considered timely.

CBIA suggests department remove the following proposed brackets: [in the office of the Administrator where such hearing is scheduled to be heard by the time the hearing is scheduled to commence on the scheduled hearing date] and strike the proposed: by 11:59 p.m. on the calendar day preceding the hearing.

We encourage the department to reconsider this arbitrary shortening of the time period for an employer's response to be considered timely. Thank you for the opportunity to submit our comments on these proposed regulations.

Sincerely,



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