

Regulation No. 15

**NOTICE OF CLAIMS FILED AND BENEFITS CHARGED, EMPLOYER RESPONSE,
AND NONCHARGE RIGHTS**

This regulation is hereby amended, promulgated and adopted by the Director of the Arkansas Department of Workforce Services, pursuant to Arkansas Code 11-10-521, 11-10-522, 11-10-703, 11-10-707, 11-10-318, and 11-10-313 to read as follows:

- (A) Notice of an initial or additional claim filed shall be mailed or otherwise provided by the Department of Workforce Services to the employing unit known to the claimant as his last employer. This notice shall request that the employer immediately furnish pertinent information to the Department of Workforce Services. The last employer shall have ten (10) days from the date the notice was mailed or otherwise provided by the Department of Workforce Services to file his response. If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the ten-day period as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.
- (B) Notice to base period employer of an initial claim filed shall be mailed or otherwise provided to each affected base period employer who is not also a last employer. This notice shall request that the employer furnish the Department of Workforce Services pertinent information. The requested information shall be filed with the Agency immediately but no later than fifteen (15) days after the date the notice was originally mailed or otherwise provided by the Department of Workforce Services. If mailed, the response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Arkansas Department of Workforce Services that the response was not filed within the fifteen (15) day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.
- (C) ~~Upon commencement of a labor dispute, the affected employer shall, upon request, promptly furnish the nearest Department of Workforce Services office a list, in duplicate, showing the names and Social Security numbers of the unemployed workers, and the last day of employment for each worker, with the further information that the unemployment is due to a labor dispute at the factory, establishment, or other premises where the workers were last employed.~~
- (D) ~~An employer, upon request, shall furnish to the Department of Workforce Services wage information for workers filing claims in another state under an approved Interstate Wage Combining Plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report. An employer shall furnish such information within ten (10) days from the date the request is mailed. Whenever an employer fails to provide wage information as requested for an~~

~~Interstate Wage-Combining claim within the required ten (10) days from the time the request is mailed, the Department of Workforce Services will establish the claimant's wage credits on the basis of the claimant's written statement of wages received for such employment with said employer supplemented by such other evidence as may be available and satisfactory to the Department of Workforce Services. Except, as provided under Arkansas Code 11-10-106 of the Arkansas Department of Workforce Services Law, if it is determined that the wage information supplied by the claimant is erroneous, no penalty shall be imposed on the claimant. A report of wages made on the basis of the claimant's written statement shall be adjusted, if necessary, upon receipt of information from an employer and such adjusted report will be delivered to the paying state for the appropriate adjustment of further benefits, if any, payable to the claimant under the approved Interstate Wage-Combining Plan on the basis of such wage credits.~~

- ~~(E) Except as hereinafter provided, a last employer shall not be eligible for the noncharge provisions authorized in subsection 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in compliance with paragraph (A) of this regulation. It shall be assumed that any last employer who fails to respond in compliance with paragraph (A) of this regulation agrees that the reason for separation as given by the claimant is correct; his failure to respond shall not affect his noncharge rights if the reason for separation given by the claimant would have otherwise resulted in the non-charging of benefits to the employer's account. His failure to timely respond, however, shall constitute a waiver of any right he may have to protest charges to his experience-rating account of benefits paid as a result of such nonmonetary determination.~~
- ~~(F) An affected base period employer not also a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law unless he has timely responded in accordance with paragraph (B) of this regulation. In addition, any employer seeking to qualify for noncharging under the Part Time Proviso of Arkansas Code 11-10-703 of the Arkansas Department of Workforce Services Law shall provide such information on wages and hours of work as the Director of the Arkansas Department of Workforce Services shall request.~~
- ~~(G) For purposes of this Regulation 15, Third Party (Agent) Representatives under contract to respond to notices to last and/or base period employers are required to observe the time periods for response and, in addition, must provide factual information to the local office requesting such response. The response must contain factual information sufficient to determine the basis of the separation of the former employee from the employer. Without such factual information, such response may be considered as untimely and the employer would not be entitled to protest charges which may result.~~

~~This amended regulation shall take effect and be in full force on and after December~~

15, 2012.

- (C) Requests for separation information shall be mailed or otherwise provided by the Department of Workforce Services to the employing unit known to the claimant as his last employer. This request shall notify the last employer of the deadline for providing the requested information to the Department of Workforce Services. If mailed, a response shall be considered to have been filed as of the date of the postmark on the envelope. Provided that if it is determined by the Director of the Department of Workforce Services that the response was not filed within the specified time in the request for separation information as a result of circumstances beyond the last employer's control, such response may be considered as having been timely filed.
- (D) Upon commencement of a labor dispute, the affected employer shall, upon request, promptly furnish the nearest Department of Workforce Services office a list, in duplicate, showing the names and Social Security numbers of the unemployed workers, and the last day of employment for each worker, with the further information that the unemployment is due to a labor dispute at the factory, establishment, or other premises where the workers were last employed.
- (E) An employer, upon request, shall furnish to the Department of Workforce Services wage information for workers filing claims in another state under an approved Interstate Wage-Combining Plan when such wages are in the base period of the paying state but have not yet been reported on a quarterly wage report. An employer shall furnish such information within ten (10) days from the date the request is mailed. Whenever an employer fails to provide wage information as requested for an Interstate Wage-Combining claim within the required ten (10) days from the time the request is mailed, the Department of Workforce Services will establish the claimant's wage credits on the basis of the claimant's written statement of wages received for such employment with said employer supplemented by such other evidence as may be available and satisfactory to the Department of Workforce Services. Except, as provided under Arkansas Code 11-10-106 of the Department of Workforce Services Law, if it is determined that the wage information supplied by the claimant is erroneous, no penalty shall be imposed on the claimant. A report of wages made on the basis of the claimant's written statement shall be adjusted, if necessary, upon receipt of information from an employer and such adjusted report will be delivered to the paying state for the appropriate adjustment of further benefits, if any, payable to the claimant under the approved Interstate Wage-Combining Plan on the basis of such wage credits.

(F) Except as hereinafter provided, a last employer shall not be eligible for the noncharge provisions authorized in subsection 11-10-703 of the Department of Workforce Services Law unless he has timely responded in compliance with paragraph (A) of this regulation. It shall be assumed that any last employer that fails to respond in compliance with paragraph (A) of this regulation agrees that the reason for separation as given by the claimant is correct; his failure to respond shall not affect his noncharge rights if the reason for separation given by the claimant would have otherwise resulted in the non-charging of benefits to the employer's account. His failure to timely respond, however, shall constitute a waiver of any right he may have to protest charges to his experience rating account of benefits paid as a result of such nonmonetary determination.

(G) (1) No employer's account shall be relieved of charges arising from an overpayment of benefits as provided in subsection 11-10-703 of the Department of Workforce Services Law if the overpayment of benefits is the result of the failure of the employer or the employer's agent to respond timely or adequately to a request for information from the Department of Workforce Services and the employer's agent has established a pattern of failing to respond to such requests. As used in this regulation:

(i.) "Timely" means the employer or the employer's agent responded to the Department of Workforce Services written requests for information as specified on the form. Provided that if it is determined by the Director of the Department of Workforce Services that the response was not timely as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.

(ii.) "Adequately" means the employer or the employer's agent substantially and accurately completed the Department of Workforce Services forms with sufficient factual information necessary to render an accurate determination of eligibility for unemployment insurance benefits.

(iii.) "Pattern" means, in the preceding calendar quarter, the employer or the employer's agent failed to timely or adequately respond to at least 51% of requests for information sent to it by the Department of Workforce Services related to the establishment of an unemployment insurance claim. However, an employer that is party to five or fewer potentially disqualifying determinations during the preceding calendar quarter shall not be deemed to have a pattern of failing to timely or adequately respond unless it has failed

to respond to at least three requests for information in the preceding calendar quarter.

- (2) At the end of each calendar quarter, or as soon thereafter as possible, the Department of Workforce Services shall notify an employer or its agent of the intent to place the employer on a list of employers that have been determined to have established a pattern of failing to timely or adequately respond to requests for information from the Department of Workforce Services.
- (i.) The notification shall become conclusive and binding upon the employer unless within fifteen (15) days after the mailing of the notice the employer requests an administrative review of the notice issued by the Department of Workforce Services. Provided that if it is determined by the Director of the Department of Workforce Services that the response was not filed within the fifteen (15) day period as a result of circumstances beyond the employer's control, such response may be considered as having been timely filed.
- (ii.) An employer that is determined to have established a pattern of failing to timely or adequately respond to requests for information shall continue remain on the list of employers ineligible to be provided relief from charges pursuant to 11-10-703(a)(6) until the employer has responded timely or adequately to requests for information for two consecutive calendar quarters.
- (3) Determinations by the Department of Workforce Services prohibiting the relief of charges pursuant paragraph G of this regulation shall be subject to protest or appeal as set forth in subsection 11-10-707 of the Department of Workforce Services law.
- (H) An affected base period employer not also a last employer shall not be eligible for the noncharge provisions authorized in Arkansas Code 11-10-703 of the Department of Workforce Services Law unless he has timely responded in accordance with paragraph (B) of this regulation. In addition, any employer seeking to qualify for noncharging under the Part Time Proviso of Arkansas Code 11-10-703 of the Department of Workforce Services Law shall provide such information on wages and hours of work as the Director of the Department of Workforce Services shall request.

This amended regulation shall take effect and be in full force on and after January 1, 2014.