

**PROPOSED REGULATION OF THE
ADMINISTRATOR OF THE EMPLOYMENT SECURITY DIVISION OF
THE DEPARTMENT OF EMPLOYMENT, TRAINING AND
REHABILITATION**

LCB FILE NO. R160-201

**The following document is the initial draft regulation proposed
by the agency submitted on 09/25/2020**

PROPOSED REGULATION OF THE EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION

EXPLANATION – Matter in *italics* is new; matter in *green bold underlining* is language proposed to be added in this amendment; matter in brackets ~~omitted material~~ is material to be omitted; matter in ~~purple double strikethrough~~ is language proposed to be deleted in this amendment.

AUTHORITY citation other than 233B; NRS 612.535 - 612.580

Section 1. Nevada Administrative Code (NAC) 612.120, entitled “Employing units: Notification of claims, determinations and rulings; reports of relevant facts; protest of payment of benefits; relief from charging of benefits. (NRS 612.220, 612.475, 612.551),” is hereby amended to read as follows:

1. The last or next to last employing unit that receives a notice of the first claim filed by a claimant following separation from employment must, within 11 days after the date of the notice, submit to the Division all relevant facts that affect the claimant’s rights to benefits, including all relevant facts which disclose that the claimant separated from employment voluntarily and without good cause, or was discharged for misconduct in connection with his or her employment.

2. The last or next to last employing unit may protest the payment of benefits if the protest is filed within 11 days after the date of the notice of filing the claim. If the employing unit has filed a report of all relevant facts in a timely manner that might adversely affect the claimant’s rights to benefits, the report is considered as a protest to the payment of benefits.

3. The last or next to last employing unit that has filed a response in a timely manner will be notified in writing of the determination as to the claimant’s rights to benefits. If the last or next to last employing unit has contributed 75 percent of the claimant’s base period earnings and has submitted all relevant facts in a timely manner indicating that the claimant quit voluntarily without good cause, or was discharged for misconduct in connection with his or her employment, the employer will be notified in writing of the Division’s ruling as to the cause of termination of the claimant’s employment and whether the experience rating record of the employer is chargeable with benefits paid the claimant.

4. The last or next to last employing unit is entitled to relief from the charging of benefits to its experience rating record if the claimant is found to have quit employment with the employing unit solely to accept other employment.

5. Any employing unit that paid wages to the claimant in the base period of the claim will be notified of the first claim filed which results in a determination that the claimant is an insured worker. The base period employer so notified must, within 11 days, submit all relevant facts disclosing whether the claimant was discharged for a crime committed in connection with his or her employment. The Division will issue a decision setting forth whether the wages will be denied in the determination of the payment of benefits.

6. Any notice of determination or ruling will contain a statement setting forth the right of appeal.

7. The notice of first claim filed which is mailed to the last or next to last employing unit must be addressed to:

(a) The employing unit's place of business where the claimant was most recently employed;

(b) The business office of the employing unit where the records of the claimant's employment are maintained; or

(c) The business office of an authorized agent of the employing unit if the employing unit has filed with the Administrator an approved authorization designating the agent to represent the employing unit.

8. Any notice properly addressed to the last known address of the employing unit or its authorized agent constitutes proper notification to the employing unit of the first claim filed.

9. The notice of first claim filed which is mailed to a base period employer who is not the last or next to last employer of the claimant must be addressed to:

(a) The employing unit's place of business where the claimant was most recently employed;

(b) The business office of the employing unit where the records of the claimant's employment are maintained;

(c) The address or addresses as requested by the employer and agreed to by the Administrator; or

(d) The business office of an authorized agent of the employing unit if the employing unit has filed with the Administrator an approved authorization designating the agent to represent the employing unit.

-- Any notice properly addressed to the last known address of the employer or his or her authorized agent constitutes proper notice to the base period employer.

10. As used in this section, "all relevant facts" includes, without limitation, dates of employment, type of work performed, specific reason given for separation from employment, the final incident to cause the separation from employment and prior disciplinary warnings of a similar nature given, if any.

11. For the second and third quarters of 2020, upon the declaration of emergency by the Governor and based on the detrimental effects of the COVID-19 pandemic on Nevada Employers, the Administrator shall provide all contributory employing units with relief from all charging of benefits to its experience record.

[Employment Security Department, No. 45 §§ I & II, eff. 12-16-70] — (NAC A 6-3-85; A by Employment Security Division, 7-5-94; R199-05 & R201-05, 2-23-2006)

Sec. 2. NAC 612.265, entitled “Reimbursement of Fund in lieu of contributions by former employer. (NRS 612.220, 612.550, 612.553),” is hereby amended to read as follows:

1. Reimbursement for benefit payments made to former employees of employers who elect to reimburse the Fund in lieu of contributions must be charged to that employer. Those reimbursements must be made on the basis of a dollar of reimbursement for each dollar paid in benefits based on the proportion of the claimant’s base period wages paid by that employer.

2. If the Division overpays benefits to a claimant, the Division will not credit the amount of the overpayment to the account of an employer who is required to reimburse the Fund pursuant to subsection 1 until the Division recovers the amount of the overpayment from the claimant.

3. For the second and third quarters of 2020, upon the declaration of emergency by the Governor and based on the detrimental effects of the COVID-19 pandemic on Nevada Employers, the Administrator shall reduce the reimbursements in lieu of contributions that are due by 50% of the amount owed.

(Added to NAC by Employment Security Department, eff. 6-3-85; A by Employment Security Division by R094-00, 10-18-2000)

Sec. 3. These regulations become effective on:

1. The date on which these amended regulations are filed by the Legislative Counsel with the Secretary of State;
or
2. The day on which LCB File No. ??? is filed by the Legislative Counsel with the Secretary of State,
→ whichever occurs later.

Jeffrey Frischmann, Acting Administrator
Employment Security Division