

## **Comments of the Independent Regulatory Review Commission**



### **Unemployment Compensation Board of Review Regulation #12-112 (IRRC #3295)**

#### **Appeals from Determinations of Department**

**May 12, 2021**

We submit for your consideration the following comments on the proposed rulemaking published in the March 13, 2021 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Unemployment Compensation Board of Review (Board) to respond to all comments received from us or any other source.

#### **1. Section 101.82. Time for filing appeal from determination of Department. – Reasonableness of requirements, implementation procedures and timetables for compliance by the public and private sectors; Clarity and lack of ambiguity.**

Subsection (b) lists filing methods for unemployment compensation appeals. Paragraphs (4) and (4.1) provide the procedures for filing an appeal by e-mail and through the Pennsylvania UC Claims System (System), respectively. We have three concerns with these paragraphs.

First, the Preamble explains that a party is “effectively [placed] on notice that if the confirmation is not received, the appeal has not been filed, prompting additional action by the party.” What additional actions will a party need to take when confirmation is not received? We ask the Board to explain the implementation procedures when a confirmation e-mail is not received or the System does not generate an acknowledgment. We also ask the Board to explain the reasonableness of omitting additional actions a party will need to take when there are specific timetables for compliance. The Board should consider revising these filing methods to establish standards that are achievable for the regulated community.

Second, these paragraphs do not state the deadline for timely filing of an appeal. We ask the Board to improve the clarity of these paragraphs by stating the deadline.

Third, do the confirmation sent by e-mail and the acknowledgment sent by the System include the date the appeal was deemed filed? We ask the Board to describe the information stated in the confirmation and acknowledgment and clarify these paragraphs to include these details.

## **2. Regulatory Analysis Form (RAF).**

We ask the Board to submit screen shots of the portion of the System used to file an appeal in response to RAF Question # 22b.

In addition, responses to RAF Question # 29 state that the “amendments will become effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin* on the date of implementation” of the System. We note that the updated System is scheduled to be launched in June 2021. Given that the System will be operational before publication of the final-form regulation, we ask the Board to explain when these amendments will become effective and update the response to RAF Question # 29 and the Preamble accordingly.

## **3. Miscellaneous clarity.**

The definition of “personal delivery” in Section 101.2 (relating to definitions) should be updated to cross-reference Section 101.82(b)(1)—**(4.1)**. [Emphasis added.]