

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 471
EMPLOYMENT DEPARTMENT

FILED
09/04/2020 8:04 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Election of coverage for services normally excluded from unemployment insurance

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Anne Friend
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/16/2020

TIME: 2:00 PM - 4:00 PM

OFFICER: Zulimar Alvira-Gonzalez

ADDRESS: Virtual

Oregon Employment Department

Salem, OR 97311

SPECIAL INSTRUCTIONS:

Hearing information will be posted on the Agency website when hearing date is closer.

NEED FOR THE RULE(S):

The rule is needed to respond to the State of Emergency declared by the Governor for the State of Oregon, Kate Brown, on March 8, 2020, due to COVID-19 and any future orders that are issued. The Employment Department believes that adopting this rule will assist in preventing or alleviating the public health threat and will allow for emergency changes as needed to respond to a particular declaration of state of emergency or public health emergency.

This rule may impact employers not subject to UI taxes and their workers. For employing units who choose to opt in, the rule may expand the availability of UI benefits to people during the crisis and enhance the effect of the actions taken to slow the spread of COVID-19. The department believes that having UI benefits more broadly available may permit some people who would otherwise be financially compelled to go to work, to instead follow public health recommendations. This change will also help provide economic stability to local communities if there is a large number of people who are no longer working or receiving pay due to the impact a state of emergency or public health emergency.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes, available online at www.oregonlegislature.gov or from the agency; and Oregon Administrative Rules, available online at sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx or from the agency.

FISCAL AND ECONOMIC IMPACT:

The department does not foresee any substantial fiscal or economic impact due to the adoption of this rule.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The department does not anticipate a cost for state agencies, units of local government, or the public to comply with this rule.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number and type of small businesses subject to the rule:

The Employment Department does not have any reliable way to provide an estimate because this information has not been historically captured by the department.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The Department does not anticipate a cost for projected reporting, recordkeeping, and other administrative activities required for compliance, including costs of professional services, as a result of the adoption of this rule.

c. Equipment, supplies, labor and increased administration required for compliance:

There is no increase in costs for equipment, supplies, labor, and increased administration required for compliance as a result of the adoption of this rule.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not specifically involved in the development of this rule. However, the department will seek input from small businesses during the public comment and public hearing process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The department did not consult an Administrative Rule Advisory Committee. Given the current circumstances and pressing need for the rule, the department considered it was not in the public's best interest to consult with one, as this would have resulted on inevitable delays. The department will seek external input during the public comment and public hearing stages of the process.

ADOPT: 471-031-0301

RULE SUMMARY: Employing units not currently required to be subject to Unemployment Insurance (UI) may provide written election for UI coverage by filing quarterly reports covering January 1, 2019 or later and paying all taxes owed to the Employment Department for those respective reporting periods.

CHANGES TO RULE:

471-031-0301

Election of coverage for services normally excluded from unemployment insurance

Unless otherwise provided, the provisions of this rule apply retroactively, beginning September 22, 2020. ¶

(1) For purposes of ORS 657.425(1), it is considered a written election for an employing unit to have services that are not considered employment subject to ORS Chapter 657, to be covered by ORS Chapter 657, when the employing unit:¶

(a) Reports on its quarterly payroll reports with the Employment Department information for services that are not considered subject employment under ORS Chapter 657; and ¶

(b) Pays all taxes owed to the Employment Department for that reporting period.¶

(2) A written election made under section (1) is considered approved unless the Employment Department notifies the employing unit in writing that it is not approved: ¶

(a) For quarterly reports filed on or after the effective date of this rule, within 90 days of when the reports are filed and the associated Employment Department taxes were paid; or ¶

(b) For quarterly reports filed after the effective date of this rule, within 90 days of that effective date. ¶

(3) This rule applies to quarterly reports filed for time periods covering January 1, 2019, or later.

Statutory/Other Authority: ORS 657.425

Statutes/Other Implemented: ORS 657.425