State of Louisiana

EXECUTIVE DEPARTMENT

PROCLAMATION NUMBER 43 JBE 2020

COVID-19 STATE OF EMERGENCY PROVISIONS FOR EMERGENCY UNEMPLOYMENT AND NECESSARY STATE EMPLOYEES

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, the Governor declared a public health emergency on in Proclamation Number 25 JBE 2020 in response to the threat posed by COVID-19;

WHEREAS, on March 11, 2020, in Proclamation Number 25 JBE 2020, the Governor declared that a statewide public health emergency existed in the State of Louisiana because of COVID-19 and expressly empowered the Governor's Office of Homeland Security and Emergency Preparedness and the Secretary of the Department of Health and/or the State Health Officer to take all actions authorized under state law;

WHEREAS, on March 13, 2020, in Proclamation Number 27 JBE 2020, the Governor supplemented the measures taken in his declaration of a Public Health Emergency with additional restrictions and suspensions of deadlines and regulations in order to protect the health and safety of the public because of COVID-19;

WHEREAS, the original proclamation was further supplemented on March 14, 2020, March 16, 2020, March 19, 2020, March 22, 2020, March 26, 2020, and March 31, 2020, in order to protect the health and safety of the public because of the extraordinary threat posed by COVID-19;

WHEREAS, in the days since the declaration of the public health emergency, the COVID-19 outbreak in Louisiana has expanded significantly;

WHEREAS, after declaration of a public health emergency, the Governor is authorized by La. R.S. 29:766(D)(1) to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the secretary of the Workforce Commission has requested, due to the massive amount of office closures in our state and our nation, that portions of La. R.S. 23:1123 regarding the assistant secretary scheduling an independent medical examination, La. R.S. 23:1124 regarding consequences for failure to timely submit to a medical examination be suspended, and La. R.S. 23:1201.1 regarding hearing requests for suspension or termination of benefits from missed appointments be suspended;

WHEREAS, it is also necessary to renew sections regarding unemployment provisions of Proclamations 27 JBE 2020 and 29 JBE 2020;

WHEREAS, further, on March 18, 2020, the Families First Coronavirus Response Act (the "FFCRA") was signed into law to provide additional paid leave to employees in light of the COVID-19 pandemic;

WHEREAS, on April 1, 2020, the U.S. Department of Labor (USDOL) posted a temporary rule relating to the paid leave provisions of the FFCRA;

WHEREAS, the USDOL's rule provides that a public employer may exclude employees who are health care providers or emergency responders from leave requirements under the Act;

WHEREAS, an employer's exercise of this option to exclude employees from this benefit does not impact an employee's earned or accrued sick, annual, compensatory, or other employer-provided leave under the employer's established policies and further does not prevent an employee who is a health care provider or emergency responder from taking earned or accrued leave in accordance with established employer policies;

WHEREAS, given the unique and necessary role that health care workers and first responders are playing in response to this emergency, it is necessary to ensure that those state employees who are health care workers and first responders remain available for service to the public;

WHEREAS, further, it is necessary to amend dates in Proclamation 41 JBE 2020; and

WHEREAS, these measures are necessary to protect the health and safety of the people of Louisiana.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: For the purpose of this proclamation, "emergency-related claims" shall mean claims for unemployment compensation filed by persons whose unemployment is directly due to the impact of COVID-19 or due to their inability to get to their job or worksite because they are sick, isolated or quarantined, caring for a sick family member, or when an employees' child's school is closed as determined by the administrator of the state's unemployment compensation program, i.e., the Secretary of the Louisiana Workforce Commission. Emergency-related claims will not necessarily include all claims in all parishes included in COVID-19 proclamations, declarations or orders.

SECTION 2: The following statutes relating to unemployment insurance are hereby further suspended to the extent and in the manner described below:

A. La. R.S. 23:1533, which provides for claimants' benefits to be charged against base period employers for purposes of employers' tax experience rating and the protesting of such charges by employers, shall be suspended for emergency-related claims made during the effective period of this Proclamation.

B. La. R.S. 23:1552, which provides for the charging of claimants' benefits to certain employers, shall be suspended for emergency-related claims made during the effective period of this Proclamation.

C. La. R.S. 23:1600(2) and (3) shall be suspended while this Proclamation is in effect for emergency-related claims to the extent that they require claimants to register and search for work, but the requirements in La. R.S. 23:1600(2) that claimants continue to report at an employment office in the manner prescribed by the administrator, and in La. R.S. 23:1600(3) that claimants be able to work and be available for work, are not waived. The requirement to continue to report at an employment office, which is accomplished through either an automated telephone system or the Internet, is not impractical and avoids overpayments, which claimants would be liable to repay. Such activities are not practical by an individual who is impacted by COVID-19.

D. La. R.S. 23:1600(4) shall be suspended while this proclamation is in effect for emergency-related claims to the extent that claimants are required to wait a period of one week before receiving benefits.

E. La. R.S. 23:1601(1) and (2), which provide certain disqualifications for otherwise eligible claimants. Such disqualifications include reasons for separation from employment, including a substantial change in employment by the employer or intentional misconduct connected with employment by the claimant. Separations that are the direct result of the impact caused by COVID-19 are not the fault of either the employer or the claimant. Administration of these separation issues with regard to such claims places an unnecessary burden on the state's unemployment system. Otherwise eligible claimants shall not be disqualified based on R.S. 23:1601(1) or (2).

SECTION 3: The following statutes relating to unemployment are hereby suspended to the extent and in the manner described below:

A. La. R.S. 23:1123, which authorizes the Assistant Secretary in a Workers' Compensation case to schedule a medical examination when there is a dispute as to the capacity to work shall be suspended during the effective period of this Proclamation. Any examination scheduled pursuant to this provision prior to the effective date of the Proclamation shall be null and void and shall be rescheduled with notice reissued to the party in accordance with existing statutory requirements.

B. La. R.S. 23:1124, which suspends an employee's right to Workers' Compensation benefits for failure to timely submit to a medical examination shall be suspended during the effective period of this Proclamation.

C. La. R.S. 23:1201.1 relative to the right to request a hearing for the suspension or termination of benefits for failure to attend a medical appointment shall be suspended during the effective period of this Proclamation.

SECTION 4: Pursuant to 29 CFR Part 826.30, the following employees of the State of Louisiana are excluded from receiving paid sick leave under "The Emergency Paid Sick Leave Act" or expanded family and medical leave under "The Emergency Family and Medical Leave Expansion Act". For purposes herein, the state employees excluded from these provisions include:

A. Healthcare providers, defined as any employee of the State of Louisiana employed at a hospital, veterans' home, health care center, clinic, local health department or agency, or any facility that performs laboratory or medical testing, as well as those employees who work in such facilities whose work is necessary to maintain the operation of the facility; and

B. Emergency responders, defined as any employee of the State of Louisiana necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes, but is not limited to military or national guard personnel, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics and emergency management personnel, as well as those employees who work in such facilities whose work is necessary to maintain the operation of the facility.

SECTION 5: Section 5(H)(1)(introductory paragraph) in 41 JBE 2020 is hereby amended to read as follows:

1) Legal deadlines, including liberative prescription and preemptive periods applicable to legal proceedings in all courts, administrative agencies, and boards, are hereby suspended until at least Thursday, April 30, 2020, including, but not limited to, any such deadlines set forth by law within the following:

SECTION 6: Section 5(H)(2) in 41 JBE 2020 is hereby amended to read as follows:

2) In addition, all other deadlines in legal proceedings in all courts, administrative agencies, and boards shall remain suspended until Thursday, April 30, 2020.

SECTION 7: These provisions extend retroactively from the initial declaration of emergency from Tuesday, April 7, 2020 to Thursday, April 30, 2020, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 7th day of April, 2020.

GOVERNOR OF LOUISIANA

ATTEST BY THE SECRETARY OF STATE

SECRETARY OF STATE