STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-102

Amending Executive Order 20-05 to Ensure Timely Unemployment Insurance Benefits During the COVID-19 Peacetime Emergency

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic continues to present an unprecedented and rapidly evolving challenge to our State. Minnesota has taken extraordinary steps to prevent and respond to the pandemic. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. Since declaring the peacetime emergency, I have extended it every 30 days, with the most recent extension occurring today, December 14, 2020.

On March 16, 2020, I issued Executive Order 20-05 to provide immediate relief to employers and unemployed workers during the COVID-19 peacetime emergency declared in Executive Order 20-01. On April 6, 2020, I issued Executive Order 20-29, amending Executive Order 20-05 to ensure compliance and consistency with federal law.

Executive Order 20-05 has helped ensure that Unemployment Insurance benefits are immediately available to workers whose jobs were affected by the COVID-19 pandemic. The Unemployment Insurance system is a bulwark of our overall public health response to the pandemic, protecting individuals who have lost employment through no fault of their own. Without financial assistance from Unemployment Insurance, many Minnesota workers would not have been able to support their families, stay in their homes, or sustain themselves during periods where business closures or restrictions were necessary. Unemployment Insurance also allows workers to avoid grave risk to their own health or the health of their families, and it has also supported parents whose job could not accommodate their need to be at home with a child during distance learning. Unemployment benefits have now helped more than 790,000 Minnesotans weather this public health crisis. With Minnesota facing a recent surge in infections, many businesses have had to close or limit operations to protect the health of their workers and patrons. Our Unemployment Insurance system is as critical as ever in helping Minnesotans maintain their health and safety during the pandemic.

Minnesota Statutes 2020, section 268.051, subdivision 3(a), requires the Department of Employment and Economic Development ("DEED") to compute an experience rating for each taxpaying employer who has been required to file wage detail reports for the 12-month period prior to June 30 of that year. Under section 268.051, subdivision 3(a), the experience rating period for calendar year 2021 includes January through June of 2020. DEED must complete its calculations and notify employers of the results on or before December 15 of each year.

Even in an ordinary year, calculating individual experience ratings is an administratively burdensome process. It requires DEED staff to determine individualized tax rates for over 130,000 employers based on millions of records. To meet the statutory deadlines in this unprecedented year, DEED would need to redirect critical staff from providing financial relief to Minnesotans whose health, safety, and economic security are at risk during the pandemic. Moreover, given the exigencies created by the pandemic, it is uncertain whether all taxpaying employers have submitted their full payroll records for the first six months of 2020. Additionally, given the unprecedented surge in unemployment claims since March, DEED has not yet reviewed all benefits paid during 2020 to determine if they should be used in the calculation of employers' 2021 experience ratings in accordance with applicable law. Calculating experience ratings without making these adjustments risks unnecessary tax increases for employers in 2021. For all of these reasons, a modest extension of the deadlines related to the calculation and dissemination of experience ratings is necessary.

In Minnesota Statutes 2020, section 12.02, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor emergency powers to "(1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2020, section 12.21, subdivision 1, the Governor has general authority to control the state's emergency management, as well as to carry out the provisions of the Minnesota Emergency Management Act, Minnesota Statutes 2020, Chapter 12. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of the Minnesota Emergency Management Act. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. Executive Order 20-05, as amended by Executive Order 20-29, is amended to add the following paragraph as paragraph 9 (indicated by underlined text):

    9. <u>The deadlines in Minnesota Statutes 2020, section 268.051, subdivisions 3(a) and 6, regarding the computation of employers' experience ratings for the 2021 tax year and notification to employers of the tax rates for the 2021 calendar year, are extended until January 30, 2021.</u>

2. All other provisions of Executive Order 20-05, as amended by Executive Order 20-29, remain in effect.

Pursuant to Minnesota Statutes 2020, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on December 14, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on December 14, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed December 14, 2020
Office of the Minnesota
Secretary of State
Steve Simon