State of North Carolina

ROY COOPER
GOVERNOR

March 30, 2021

EXECUTIVE ORDER NO. 207

FURTHER EXTENDING PROCESSES TO EXPEDITE PAYMENT OF UNEMPLOYMENT INSURANCE CLAIMS

The COVID-19 Public Health Emergency

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 188-193, 195, 197-198, 200, and 204-206; and

WHEREAS, COVID-19 continues to extract an unprecedented toll on human life in North Carolina; and

WHEREAS, more than nine hundred twelve thousand (912,000) people in North Carolina have had COVID-19, and more than twelve thousand (12,000) people in North Carolina have died from the disease; and

WHEREAS, many North Carolinians have experienced loss or reduction in employment since the start of the pandemic; and

Expediting Processing of Unemployment Insurance Claims

WHEREAS, on March 17, 2020, with the concurrence of the Council of State, the undersigned issued Executive Order No. 118, which broadened unemployment insurance benefits availability in response to COVID-19; and

WHEREAS, from the period dating March 15, 2020 through March 29, 2021, the Division of Employment Security ("Division") has received over 3,520,000 claims; and

WHEREAS, to timely process this unprecedented volume of claims, the Division must explore all measures available to expedite the claims process and get relief to North Carolinians; and

WHEREAS, N.C. Gen. Stat. § 96-15(a1) provides a mechanism, in the case of partial unemployment, for employers to submit claims on behalf of their employees through the use of an automated process (the "attached claim" process); and

WHEREAS, the attached claim process is ordinarily available only for six (6) weeks of benefits, is ordinarily available for use with respect to an employee only once during a benefit year, is ordinarily available only for an employer who has a positive credit balance in their account, and ordinarily is available only for an employer which immediately pays the Division an amount equal to the full cost of unemployment benefits payable to the employee at the time the claim is filed; and

WHEREAS, to coordinate with the additional unemployment benefits authorized by the federal government during the emergency, the undersigned determined that expanding availability of the attached claim process would allow more employers to submit claims for their employees, leading to faster automated processing and unemployment insurance funds arriving sooner in the hands of North Carolinians in need; and

WHEREAS, on April 9, 2020, the undersigned issued Executive Order No. 131, which provided in part that if the North Carolina Department of Commerce determined that it would significantly speed the processing of unemployment insurance claims and ease the administrative burden on the Division of Employment Security, said Division could delay the enforcement of the requirements of N.C. Gen. Stat. § 96-15(a1) to the extent necessary to expedite the distribution of unemployment insurance benefits; and

WHEREAS, on May 2, 2020, in Session Law 2020-3, the North Carolina General Assembly enacted N.C. Gen. Stat. § 96-14.15, which was consistent with the attached claim process changes found in Executive Order No. 131; and

WHEREAS, Session Law 2020-3 provided that N.C. Gen. Stat. § 96-14.15 would automatically expire at the end of the State of Emergency or on December 31, 2020, whichever came first; and

WHEREAS, on December 27, 2020, the President signed H.R. 133, providing for the continuation of additional unemployment insurance benefits into the first quarter of 2021; and

WHEREAS, on December 30, 2020, the undersigned issued Executive Order No. 184, which authorized the North Carolina Department of Commerce to delay enforcement of the attached claim process if necessary to assist in processing unemployment insurance claims through January 31, 2021; and

WHEREAS, on January 27, 2021, the undersigned issued Executive Order No. 191, which extended Executive Order No. 184 through March 31, 2021; and

WHEREAS, in light of the additional unemployment insurance benefits now authorized by the President for 2021, and in light of the continued and unprecedented number of unemployment insurance claims, the advantages gained by allowing employers to file attached claims for their employees without the restrictions imposed by N.C. Gen. Stat. § 96-15(a1) continue to be meaningful and provide for distribution in a more timely manner; and

WHEREAS, the undersigned has therefore determined that to cooperate and coordinate with the President's extension of benefits into 2021 and in order to continue expediting the processing of unemployment insurance claims, the measures in Executive Order No. 184 on expediting unemployment insurance claims shall be extended through and including June 30, 2021; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4), the undersigned is authorized to "cooperate and coordinate" with the President of the United States and the heads of department and other agencies of the federal government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to "give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article"; and

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order Nos. 184 and 191, **IT IS ORDERED:**

Section 1. Extension of Section 2(D) of Executive Order No. 184 - Reinstating Processes to Expedite Payment of Unemployment Insurance Claims.

Section 2(D) of Executive Order No. 184 shall be amended and restated as follows:

> "This Section of this Executive Order is effective December 31, 2020, and shall remain in effect through and including June 30, 2021, unless repealed, replaced, or rescinded by another Executive Order, or unless a law is passed that codifies this Executive Order. An Executive Order rescinding the Declaration of the State of Emergency shall automatically rescind this Section."

Section 2. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 3. Savings Clause and Interpretation.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 4. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 5. Effective Date.

Unless otherwise expressly stated herein or in another Executive Order, this Executive Order shall be in effect at the beginning of the day on March 31, 2021 and remain in effect through and including June 30, 2021, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30th day of March in the year of our Lord two thousand and twenty-one.

Roy Cooper

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall

Elaine F. Marshall
Secretary of State