

**BEFORE THE DELAWARE DEPARTMENT OF LABOR,  
DIVISION OF UNEMPLOYMENT INSURANCE**

**FIFTEENTH EMERGENCY RULES AMENDING THE DELAWARE  
UNEMPLOYMENT INSURANCE CODE PURSUANT TO 29 DEL.C. § 8503**

**WHEREAS**, the Centers for Disease Control and Prevention has determined that a novel coronavirus (“COVID-19”) presents a serious public health threat; and

**WHEREAS**, on March 12, 2020, Governor John Carney issued a State of Emergency in Delaware due to the public health threat of COVID-19, which became effective as of Friday, March 13, 2020 at 8:00 a.m. E.S.T., and shall continue until terminated as provided under state law (the “State of Emergency”); and

**WHEREAS**, on March 16, 2020, Governor Carney issued a First Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat, pursuant to Title 20, Chapter 31 of the Delaware Code, which modified the previously issued State of Emergency declaration and provided that:

“The Delaware Secretary of Labor is authorized to develop emergency rules, amending the Delaware Unemployment Insurance Code, effective Monday, March 16, 2020, such emergency rules to remain in effect until the State of Emergency declaration has been rescinded. These rules should enhance the flexibility of the unemployment insurance program in response to COVID-19, and alleviate some of the burden of temporary layoffs, isolation, and quarantine by ensuring unemployment benefits are available to individuals whose employment has been impacted directly by COVID-19.”; and

**WHEREAS**, the First Modification also limited public gatherings to 50 people, provided all restaurants, bars and taverns could only provide food and beverage service through take-out, drive through or off premises delivery, and required casinos to cease gaming operations; and

**WHEREAS**, on March 18, 2020, Governor Carney issued a Second Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Second Modification”), which reiterated the emergency rulemaking authorization to the Delaware Secretary of Labor that was in the First Modification, and also required bowling alleys, concert events, movie theaters, sports facilities, fitness centers, and health spas to cease operations; and

**WHEREAS**, through subsequent modifications of the State of Emergency, all non-essential businesses were required to cease operations; and

**WHEREAS**, on May 8, 2020, Governor Carney issued a Second Extension of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Second Extension”), which extended the State of Emergency to May 31, 2020; and

**WHEREAS**, on May 31, 2020, Governor Carney issued the Twentieth Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Twentieth Modification”), which extended the emergency rulemaking authorization granted to the Delaware Secretary of Labor that was in the First Modification through July 2, 2020; and

**WHEREAS**, on June 6, 2020, Governor Carney issued a Third Extension of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Third Extension”), which extended the State of Emergency to July 6, 2020; and

**WHEREAS**, on June 30, 2020, Governor Carney issued the Twenty-Third Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Twenty-Third Modification”), which extended the emergency rulemaking authorization granted to the Delaware Secretary of Labor that was in the First Modification until the State of Emergency is rescinded; and

**WHEREAS**, on July 6, 2020, Governor Carney issued a Fourth Extension of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Fourth Extension”), which extended the State of Emergency to August 5, 2020; and

**WHEREAS**, on March 19, 2020, President Trump signed into law the Families First Coronavirus Response Act, including the Emergency Unemployment Insurance Stabilization and Access Act of 2020, which grants the states broad flexibility to modify state unemployment laws and policies on an emergency temporary basis as needed to respond to COVID-19; and

**WHEREAS**, on March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief and Economic Security Act, which provides stimulus funds and extended and supplemental unemployment benefits to a variety of employees and other workers; and

**WHEREAS**, on July 16, 2020, the General Assembly modified 29 *Del.C.* § 8503 to codify the rulemaking authority of the Secretary of Labor contained in the Twenty-Third Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Twenty-Third Modification”). Section 8503 as enacted states:

“The Secretary is authorized to develop emergency rules amending the Delaware Unemployment Insurance Code which enhance the flexibility of the unemployment insurance program in response to COVID-19 and alleviate some of the burden of temporary layoffs, isolation and quarantine by ensuring unemployment benefits are available to individuals whose employment has been impacted directly by COVID-19.”

This section is effective until March 31, 2021; and

**WHEREAS**, since the rulemaking authority was codified by the General Assembly, on September 3, 2020, Governor Carney issued the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat (the “Twenty-Seventh Modification”), which rescinded all prior State of Emergency modifications regarding the emergency rulemaking authorization granted to the Delaware Secretary of Labor; and

**WHEREAS**, in the interest of protecting the citizens of Delaware who may experience economic hardships related to the impact of COVID-19, the Department of Labor finds that the adoption of the following emergency rules is necessary to enhance the flexibility of Delaware's unemployment insurance program to provide cash assistance to many Delaware workers whose employment has been impacted directly by COVID-19 and who would not typically qualify for benefits.

**NOW, THEREFORE, IT IS ORDERED:**

1. Effective retroactive to January 3, 2021, the first sentence of Section 3354 of Title 19 of the Delaware Unemployment Code is hereby amended as follows (*deletions shown in strikethrough and additions shown in underline*):

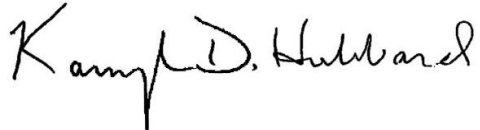
(b) Such determination shall become conclusive and binding upon the employer unless, within ~~15~~ 45 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing within ~~15~~ 45 days after the delivery of such notice, the employer files an application for review and redetermination setting forth the employer's reasons therefor.

2. An employer may file an application for review and redetermination of an employer's rate of assessment determined for calendar year 2021, as set forth in 19 *Del. C.* § 3354(b), with the Department either by mail or by email to the following email address:  
DOL\_UI\_Employer\_Tax\_Questions@delaware.gov.

These emergency rules are promulgated by the Department of Labor pursuant to the authority granted to the Secretary of Labor by the General Assembly in 29 *Del.C.* § 8503. During the period of time 29 *Del.C.* § 8503 is in effect, all existing laws, ordinances, rules or regulations that are inconsistent with these emergency rules shall be suspended, to the extent that a conflict exists. These emergency rules shall remain in effect until March 31, 2021, unless modified or amended by additional emergency rules.

The Secretary of the Department of Labor reserves the right to issue additional emergency rules and to modify or amend these emergency rules, pursuant to the rule-making authority granted in 29 *Del.C.* § 8503.

**IT IS SO ORDERED**, the 22nd day of January 2021.

A handwritten signature in black ink that reads "Karryl D. Hubbard". The signature is written in a cursive style with a large initial "K".

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Karryl Hubbard  
The Secretary of the Delaware Department of Labor