

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Department of Labor

Rule No. 480-4-3-.30

Rule Title: Claimant Right to Rebuttal.

_____ New Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Stephen McCork

Date 10-20-14

(DATE FILED)
(STAMP)

Department of
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-4-3-.30 Claimant Right to Rebuttal.

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: The adoption is necessary to further define the procedure for claimant's right to rebuttal after potentially disqualifying information has been revealed.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Stephen McCormick, Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131 by mail or in person between the hours of 8:00 am and 4:30 pm, Monday through Friday until and including December 08, 2014. Persons wishing to submit data, views or arguments orally should contact Stephen McCormick by telephone at (334) 242-8274 during this period to arrange an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 08, 2014.

CONTACT PERSON AT AGENCY:

Stephen McCormick
Department of Labor
649 Monroe Street
Montgomery, AL 36131
Telephone: (334) 242-8274



Stephen McCormick
Director, Governmental Affairs

ALABAMA DEPARTMENT OF LABOR
ADMINISTRATIVE CODE

CHAPTER 480-4-3
BENEFITS

480-4-3-.30 Claimant Right to Rebuttal.

(1) All potentially disqualifying information received from a source other than the claimant shall be discussed with the claimant. Until the claimant is given an opportunity for rebuttal, any determination on the issue cannot be considered a valid nonmonetary determination.

(2) The language of the 1971 decision in California Department of Human Resources Development v. Java provides that states must pay unemployment compensation in full when due. "When due" meant at the earliest stage of unemployment that such payments were administratively feasible after giving worker and employer an opportunity to be heard. Although the case spoke specifically to appeals, the Department uses the language as the basis for handling any issue arising while a claimant is in pay status.

(3) Information provided directly or indirectly by the claimant during the claim series will warrant an interruption in benefits if the information is potentially disqualifying (~~mail~~ claim certification errors, for example). When potentially disqualifying information is given by a claimant to a ~~local office representative~~ an unemployment compensation representative, the ~~local office unemployment compensation representative~~ shall enter an appropriate issue code into the computer data base until the investigation is complete and a determination issued. If the determination can be completed the day the information is obtained, the issue and resolution may be entered in the same transaction. A Notice of Determination shall be provided to the claimant in all cases when benefits are disallowed or reduced.

(4) If the source of the potentially disqualifying information is a third party, however, no interruption shall be made in the payments until the claimant has been offered a rebuttal opportunity. Immediate efforts shall be made to obtain claimant rebuttal by phone, ~~in person~~, or by mail. If by mail, a form giving complete details about the report, and how long the claimant has to respond, shall be mailed to the claimant the day the report is received. This notice shall also contain a statement that failure to ~~report~~ respond could result in disqualification, and it shall give the

claimant adequate space and instruction to respond ~~if he cannot~~
~~report~~.

(5) If the claimant fails to ~~report~~ respond in the allotted time
(usually seven days), the issue shall be adjudicated with
information on hand.

Author: James C. Hollon, Unemployment Compensation Director; Thomas
Daniel, Unemployment Compensation Director.

Statutory Authority: Code of Ala. 1975, §§25-5-7, 25-2-8, 25-4-111.

History: Amended: Filed October 20, 2014; Effective: