

Section 1. Section 472.12 is repealed and a new Section 472.12 is added to read as follows:

§472.12 Responding to Requests for Information and Employer Relief of Charges – Timely and Adequately Requirement for Responding

- (a) A response to a notice of potential charges (hereinafter referred to as a claim notice) must be received by the Department of Labor within 10 calendar days of the date on the claim notice.
- (b) All other requests for information pertaining to an unemployment insurance claim must be received by the Department of Labor within the number of days specified in the written (including electronic transmission) or verbal request for information.
- (c) The Department of Labor may communicate its request for information to employers by letter; electronic communication; fax; telephone; through “SIDES,” the State Information Data Exchange System (if agreed to by the employer); or other method of communication approved by the Department of Labor.
- (d) The claim notice and all other requests for information referenced in subdivisions (a) and (b) shall be sent to the employer’s address, fax number, or email address of record on file with the Department of Labor, or an electronic account authorized by the Department of Labor. The Department of Labor may also request information by calling the employer’s business telephone number. Employers must notify the Department of Labor when any of the above contact information changes. Requests for information sent to the employer’s last known address, business telephone number, fax number, email address or authorized electronic account shall be deemed to have been sent to the correct address for the purposes of this section.
- (e) Employers may respond to a claim notice and/or request for information by fax, electronic communication, SIDES, U.S. Postal Service, private delivery service, telephone (if the request for information required a telephone response), or other method of communication approved by the Department of Labor. An employer’s response to the Department of Labor shall be deemed to have been received on the date indicated by the date stamp placed on incoming faxes by the Department of Labor’s fax machine, the date stamp on paper documents, or the date the electronic submission is received. If no fax or date stamp exists, the receipt date will be deemed to be two days prior to the date the document is entered in the Department’s imaging system. If the employer disputes the date a response was received by the Department of Labor, the burden shall be on the employer to provide proof that the response was timely. Proof may include, but is not limited to, a confirmation of delivery, a stamped receipt by an agent of the Commissioner, or an affidavit of personal service on the Commissioner or his/her agent.
- (f) An employer’s response to a request for information must contain adequate information. To be considered adequate, the response must:
  - (1) specify the reason(s) for the separation, or other issue affecting the claimant’s eligibility or entitlement for benefits;
  - (2) answer, in good faith, all questions in detail; and
  - (3) provide all relevant information and documentation for the Department of Labor to render a correct determination regarding the claimant’s eligibility or entitlement for benefits.
- (g) If the Commissioner of Labor determines that overpayments of benefits occurred because the employer failed to timely or adequately respond to a claim notice or other request for information, the employer’s account shall not be relieved of charges relating to the overpayments, except in accordance with subdivisions (h), (i) and (j). The employer shall not be relieved of charges for each

week that an overpayment is made, through the date that the Department of Labor makes a determination that the claimant is no longer eligible for or entitled to benefits or makes a determination that results in a reduction of benefits.

- (h) An employer shall be relieved of charges imposed in subdivision (g) for the first instance that the employer or its agent fails to provide timely or adequate information, if the employer provides good cause for such failure. Good cause shall include any significant event that the employer could not reasonably have anticipated which affects the employer's ability to respond timely to requests for information, as determined by the Commissioner. After the first instance of failing to provide timely and adequate information, the employer shall only be relieved of charges for a subsequent failure in accordance with the provisions of subdivisions (i) and (j) below.
- (i) An employer may be relieved of charges if the charges were due to an error by the Department of Labor.
- (j) An employer may be relieved of charges if they were unable to respond in a timely manner due to a disaster emergency as declared by the Governor of their State or the President of the United States.