

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

UNEMPLOYMENT AGENCY

SECURITY FOR REIMBURSEMENT FINANCING OF UNEMPLOYMENT INSURANCE COST

(By authority conferred on the employment security commission by section 4 of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being S421.4 of the Michigan Compiled Laws)

R 421.601 Newly liable nonprofit employer electing reimbursement payments; security.

Rule 1. (1) A newly liable nonprofit employer that elects, on and after December 21, 1989, to make reimbursement payments pursuant to the provisions of section 13a of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being S421.13a of the Michigan Compiled Laws, shall provide the required security for the first-year security that is required pursuant to the provisions of section 13a(4) of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being S421.13a(4) of the Michigan Compiled Laws, and for the 2 consecutive succeeding calendar years. Thereafter, the security shall be renewed for 2-year periods for as long as the nonprofit organization retains reimbursement status. A nonprofit employer that seeks to renew a security and thereby retain reimbursement status shall do so by November 30 of the year before the year for which the security is required.

(2) The security shall be in the form of a surety bond, irrevocable letter of credit, or other banking device which is acceptable to the employment security commission and which provides for payment to the commission, on demand, of an amount equal to the security required to be posted. The required security may be posted by a third-party guarantor.

(3) This rule shall not apply to a newly liable nonprofit employer that is expected to pay less than \$100,000.00 or less in total wages per calendar year. However, a nonprofit employer that elects reimbursement status on or after December 21, 1989, shall be required to provide security when payment of gross wages in a calendar year reaches exceeds \$100,000.00. It is the employer's duty to notify the commission, within 60 days, that its payroll has reached exceeds \$100,000.00 per year. The security shall be posted within 30 days of notice of such requirement by the commission.

(4) For newly liable employers, the amount of security that is required shall be 4.0% of the employer's estimated total annual wage payments, as determined by the commission. Employers that have a previous payroll history shall be required to file a security that is equal to 4.0% of the total annual wage payments for the 12-month period ended June 30 of the year before the year the security is required or 4.0% of the estimated total annual wage payments, whichever is greater.

History: 1992 AACCS.

R 421.602 Nonprofit employer liable before December 21, 1989, electing reimbursement payments; security.

Rule 2. (1) A nonprofit employer that was liable before December 21, 1989, and that elects the reimbursement method of financing on or after December 21, 1989, shall be required to post a security for the year of election and the succeeding year. Thereafter, the security shall be renewed for 2-year periods. A nonprofit employer that seeks to renew a security and thereby retain reimbursement status by posting a security shall do so by November 30 of the year before the year for which the security is renewed.

(2) The security shall be in the form of a surety bond, irrevocable letter of credit, or other banking device which is acceptable to the commission and which provides for payment to the commission, on demand, of an amount equal to the security that is required to be posted. The required security may be posted by a third-party guarantor.

(3) This rule shall not apply to a nonprofit employer that is expected to have less than \$100,000.00 or less per calendar year in total wage payments, as determined by the commission. However, a nonprofit employer that elects reimbursement status on or after December 21, 1989, shall be required to provide security when the payment of gross wages in a calendar year reaches exceeds \$100,000.00. It is the employer's duty to notify the commission, within 60 days, that its payroll has reached exceeds \$100,000.00 per year. The security shall be posted within 30 days of notice of such requirement by the commission.

(4) The amount of security that is required shall be 4.0% of the employer's estimated total annual wage payments, as determined by the commission. Employers that have a previous wage payment history shall be required to file a security that is equal to 4.0% of the gross wages paid for the 12-month period ended June 30 of the year before the year the security is required or 4.0% of the estimated total annual wages, whichever is greater.

History: 1992 AACCS.

R 421.603 Effect of delinquent payment of reimbursement charges.

Rule 3. (1) If a nonprofit employer, regardless of the size of payroll or the date of election to become reimbursing, that was exempted from a security requirement becomes delinquent in paying its reimbursement charges for any 2 consecutive calendar quarters, the commission shall, pursuant to the provisions of section 13d of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being S421.13d of the Michigan Compiled Laws, require the employer to execute and file a surety bond, irrevocable letter of credit, or other banking device which is acceptable to the commission and which provides for payment to the commission, on demand, of an amount equal to the security that is required to be posted. This rule shall apply even if the reimbursement charges have been protested by the employer. The security requirement may be posted by a third-party guarantor.

(2) For the purpose of this rule, an employer shall be considered delinquent if a billed amount is not paid within 30 days of the due date of billing for benefit charges. If the billed amount due is for benefit charges that have been protested by an employer and are under appeal, the employer shall pay the benefit charges in a timely manner, under protest, to avoid the security requirement. If the employer has a delinquency that is more than the amount of the security required, the employer shall be required to pay the delinquency in full and post the security, even if the benefit charges have been protested and are under appeal, or the employer's status as a reimbursing employer shall be terminated for the next calendar year. The security shall be filed within 30 days of notice to the employer of the requirement to file a security and shall be posted for the remainder of any calendar year plus the 2 subsequent calendar years.

(3) The amount of security that is required shall be equal to 4.0% of the employer's total gross wage payments for the 12-month period ending on the most recent June 30 or 4.0% of the employer's anticipated gross wage payments for the current year, whichever is greater. If wage information is not available, the commission shall estimate the payroll based on the information available. The security, once filed, shall remain in effect for the remainder of the first year it is required plus the 2 consecutive succeeding calendar years, at which time it will be subject to renewal for additional 2-year periods at the commission's discretion. If the required renewal security is not provided by November 30 of the year before the year for which it is required, the employer's reimbursement status shall be terminated.

History: 1992 AACCS.

R 421.604 Effect of failure to comply with rules.

Rule 4. Failure to comply with the security requirements of R 421.601 to R 421.603 shall result in the denial of election of reimbursement status or shall result in termination, by the commission, of the employer's existing reimbursement status.

History: 1992 AACCS.

R 421.605 Effect of reimbursement payment delinquency.

Rule 5. If a reimbursing employer complies with the security requirement of R 421.601 to R 421.603, but is delinquent in making reimbursement payments for 2 consecutive quarters after the imposition of the security requirement, or if the delinquency is at any time more than the amount of security required, the commission shall terminate the employer's reimbursement status as of the beginning of the next calendar year. For the purpose of termination of reimbursing status, an employer shall be considered delinquent if a billed amount is not paid within 30 days of the due date of a charge or billing. If the billed amount due is for benefit charges that

have been protested by an employer and are under appeal, the employer shall pay the benefit charges, under protest, to avoid termination as a reimbursing employer.

History: 1992 AACs.

R 421.606 Implementation of rules.

Rule 6. The director of the bureau of unemployment insurance of the employment security commission, or an individual designated by the director of the bureau of unemployment insurance, shall be responsible for implementing these rules.

History: 1992 AACs.