

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
24.11.478 pertaining to COVID)
unemployment insurance benefits)

TO: All Concerned Persons

1. On May 14, 2021, the Department of Labor and Industry (department) published MAR Notice No. 24-11-372 pertaining to the public hearing on the proposed repeal of the above-stated rule at page 534 of the 2021 Montana Administrative Register, Issue Number 9.

2. The department held a public hearing in Helena on June 11, 2021, over the Zoom videoconference and telephonic platform and comments were received. Written comments were also received during the public comment period.

3. The department has thoroughly considered the comments made. A summary of the comments and the department's responses are as follows:

COMMENT 1: Several commenters suggested that the state of Montana should not opt out of federal pandemic-related unemployment insurance programs which provide federal funding to the state because doing so "jeopardizes Montana's economic recovery" and because of expressed concern of "a substantial loss of income without federal UI benefits."

RESPONSE 1: The comment is noted. However, the concern is outside the scope of this rulemaking, which solely concerns repeal of ARM 24.11.478. Contractual agreements with the U.S. Department of Labor for other pandemic-related programs, such as Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, Mixed Wage Earners Unemployment Compensation, and Federal Pandemic Unemployment Compensation were terminated effective June 26, 2021, by notice to the U.S. Department of Labor of the same. This rulemaking does not impact those programs.

COMMENT 2: One commenter suggested that repeal of ARM 24.11.478 was unnecessary because, by its own terms, the rule is ineffectual after termination of the state of emergency. The commenter further stated that the rule would need to continue to be applied to claims filed prior to the end of the state of emergency.

RESPONSE 2: The department appreciates the comment. However, the department's obligation to the people of Montana is to ensure accuracy of its administrative rules so as to provide clarity. Repealing the administrative rule at this time makes clear to all those affected the applicable laws relating to unemployment insurance claims. The department acknowledges that the rule will be applied to claims for benefits for weeks prior to the termination date of the rule.

COMMENT 3: One commenter seeks data regarding unemployment rates across multiple years.

RESPONSE 3: The department appreciates the comment; however, it is outside the scope of the current rulemaking which is undertaken to coincide with expanded vaccination rates as well as the termination of the state of emergency in Montana pursuant to House Bill 230 (2021). Nonetheless, a great deal of statistical information regarding Montana's workforce is available at lmi.mt.gov.

COMMENT 4: One commenter requests the "specific coded authority they are implementing these changes under."

RESPONSE 4: The department is vested with rulemaking authority for unemployment insurance by 39-51-302, MCA.

COMMENT 5: One commenter seeks information about the number of claims which will be denied as a result of the repeal of ARM 24.11.478. The commenter suggests that any benefits paid would be "covered by Federal funding so it would have no impact on Montana's fund."

RESPONSE 5: The department is unable to predict the exact number of claimants who might have been eligible for an additional week of benefits absent the repeal of this rule; claims numbers are generally decreasing overall. The department notes that only those claimants who filed a claim for benefits from June 27 through June 30 could have been eligible for benefits, because, pursuant to ARM 24.11.478(9), any separation which arose after termination of the state of emergency would not be subject to the rule. Pursuant to the enactment of House Bill 230 (2021), the state of emergency will end July 1, 2021. The department further notes that unemployment insurance benefits are paid out of the Unemployment Insurance Trust Fund and are not generally reimbursed by federal funding.

4. The department has repealed ARM 24.11.478 as proposed, effective June 27, 2021.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 15, 2021.