

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
PROPOSED OR REPROPOSED	12/09/2016	Date Filed with Division of State Documents
Actions on Regulations		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/20/2017

2. COMAR Codification

Title Subtitle Chapter Regulation

09 32 02 13

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

4. Name of Regulations Coordinator **Telephone Number**
Jessica V Carter 410-230-6112

Mailing Address

500 N. Calvert Street, Suite 406

City **State** **Zip Code**
Baltimore MD 21202

Email
jessica.carter1@maryland.gov

5. Name of Person to Call About this Document **Telephone No.**
Jared Murphy 410-767-2409

Email Address
jared.murphy@maryland.gov

6. Check applicable items:
 New Regulations
 Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 10/27/2016.

X- Repeal of Existing Regulations

- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

- Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

- Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Cynthia D. Spirt, Assistant Attorney General, (telephone #410-230-6120) on 10/27/2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Kelly M. Schulz

Title	Telephone No.
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Secretary	410-230-6020
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Date

10/27/2016

Title 09
DEPARTMENT OF LABOR, LICENSING, AND
REGULATION

Subtitle 32 UNEMPLOYMENT INSURANCE

09.32.02 Claims for Benefits

Authority: Labor and Employment Article, §§8-101, 8-305, and 8-1009, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of the Department of Labor, Licensing and Regulation proposes to amend and repeal language in Regulation .13 Severance Pay, Dismissal Pay, or Pay instead of Notice of Termination under COMAR 09.32.02.13 Claims for Benefits.

Statement of Purpose

The purpose of this action is to repeal outdated provisions and definitions to reflect legislative changes made in 2009 to the Unemployment Insurance Law and to clarify that severance paid in exchange for a release of claims is fully deductible.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jared Murphy, Director, UI Legal Services, Department of Labor, Licensing and Regulation, 1100 N. Eutaw St., Baltimore, MD 21201, or call 410-767-2409, or email to jared.murphy@maryland.gov, or fax to 410-333-7099. Comments will be accepted through February 21, 2017. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 17

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used: No additional funds are needed for these amendments or for the proposed repeal of certain provisions in COMAR 09.32.02.13.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly: The proposed action modifies the text to remove outdated language and to conform to statutory changes made to the Unemployment Insurance Law in 2009 with regard to the deducting severance pay from benefits. The proposal also clarifies the definition of severance pay.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

See Response E, above.

G. Small Business Worksheet:

Attached Document:

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 32 UNEMPLOYMENT INSURANCE

02 Claims for Benefits

Authority: Labor and Employment Article, §§ 8-101, 8-305, and 8-1009, Annotated Code of Maryland

.13 Severance Pay, Dismissal Pay, or Pay instead of Notice of Termination.

A. [Definitions.

(1) Employee Benefits Package.

(a) "Employee benefits package" means any cash or in-kind contribution which is made by an employer to or on behalf of an employee or any dependent of an employee and which does not constitute wages paid to the employee.

(b) "Employee benefits package" includes but is not limited to an employer's contribution:

- (i) To a health, medical, life, or disability insurance plan;
- (ii) To a pension plan or retirement plan;
- (iii) To a deferred compensation plan;
- (iv) To an annuity plan;
- (v) To a stock option plan; or
- (vi) For dependent care assistance.

(2)] "Severance pay" [means] is the gross amount of severance pay *including severance pay that is contingent on the employee signing a release of liability or waiver agreement*, dismissal pay, pay instead of notice of termination, wage continuation, or other remuneration paid or payable to the claimant upon separation from employment.

[3) "Wage continuation" means any payment that consists of the same wage amount and employee benefit package that is paid to an individual when services are no longer being performed as was paid when services were being performed.]

B.[Deductible] *Deducting* Severance Pay.

(1) Severance pay shall be deducted from benefits[when the individual's former position has not been eliminated].

[2) Wage continuation shall be deducted from benefits even when the individual's former position has been eliminated.]

[3)] (2) The Secretary shall allocate severance pay that is paid in a lump sum or in increments to a number of weeks following the date of separation, including the week during which the claimant was separated from employment. The Secretary shall allocate severance pay by:

(a) Calculating the entire amount of severance pay *including any amount of severance pay that may be contingent on the employee signing a release of liability or waiver agreement*;

(b) (text unchanged)

(c) (text unchanged)

(d) (text unchanged)

[4)] 3) If severance pay allocated to a particular week is less than the claimant's weekly benefit amount, the claimant shall receive the difference.

[C. Nondeductible Severance Pay. Severance pay that is not wage continuation may not be deducted from benefits when the claimant's former position is eliminated and that position will not be filled, regardless of whether the claimant's former job duties are being performed by others.]

[D. Partial Earnings. Severance pay that is less than the claimant's weekly benefit amount may not be deducted pursuant to Regulation .10F of this chapter as partial earnings.]

[E.] C. Severance Pay Reportable and Taxable. Severance pay is reportable and taxable for the purpose of the employer's contribution obligations under the Unemployment Insurance Law.

KELLY M. SCHULZ
Secretary
Department of Labor, Licensing and Regulation