

## 430 CMR: DIVISION OF UNEMPLOYMENT ASSISTANCE

### 430 CMR 5.00: EMPLOYER REQUIREMENT SERIES

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#### 5.01: Work Records

- (1) Every employing unit shall keep sufficient records:
  - (a) To enable it to prepare accurate reports with respect to its employment as may be required by the Commissioner; and
  - (b) To enable the Commissioner to verify any report submitted by the employing unit; and
  - (c) To make it possible by an inspection thereof to determine with respect to each worker:
    1. Wages earned by calendar weeks.
    2. Whether any week was in fact a week of less than full-time work.
    3. Time lost, if any, by such worker due to his unavailability for work, or inability to work.
- (2) Any employing unit found to be in default with respect to the requirements of 430 CMR 5.01(1) will be duly notified in writing and failure to correct such default shall subject the employing unit to the penalties set forth under M.G.L. c. 151A, § 47.
- (3) Payrolls, working sheets and other records from which information is assembled for the preparation of reports and the duplicate of reports filed with the Department shall be preserved for a period of four years from the date on which the report was filed.
- (4) Employers shall post in conspicuous places accessible to all their employees any notices affecting benefits when so requested by the Commissioner

#### 5.02: Reporting Requirements, General

- (1) Each employing unit shall comply with the instructions printed on forms issued by the Department.
- (2) An employing unit shall immediately notify the Department of such fact if:
  - (a) On some day in each of thirteen weeks in any calendar year it has employed one or more individuals in Massachusetts, or has paid wages in the amount of \$1500 or more in any calendar quarter, or
  - (b) It is subject to, or during the preceding calendar year was subject to the provisions of Chapter 23 of the Internal Revenue Code and any amendments thereto, and employed one or more individuals in Massachusetts and its payroll for services performed in Massachusetts is in excess of \$200 in a calendar quarter, or
  - (c) It has acquired the organization, trade, business, or assets thereof of another employing unit in whole or in part.

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5.02: continued

(d) It has employed ten or more individuals in agricultural service on some day in each of 20 weeks, or has paid remuneration in cash amounting to \$20,000 or more for such service in any calendar quarter. Agricultural service is defined in 430 CMR 5.03(11)

(e) It has paid \$1,000 or more in cash for domestic service in any quarter during the calendar year. Domestic service includes but is not limited to all service for a person in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.

(3) Any employing unit which has been determined by the Commissioner to be exempt from the provisions of M.G.L. c. 151A shall notify the Department of any changes in the character of its organization, or the purposes and/or the manner of its operation.

(4) Each employer who shall sell, convey, or otherwise dispose of his business, or all or any part of the assets thereof, or who shall cease business for any reason, whether voluntary or involuntary, or by being in bankruptcy, or otherwise, shall immediately report such facts in writing to the Commissioner. He shall state the name and address of the person, firm, or corporation to whom such business or all or any part of the assets thereof shall have been sold, conveyed, or otherwise transferred, or in cases of bankruptcy, receivership, or similar situations, shall report the name and address of the trustee, receiver, or other official placed in charge of the business.

(5) With respect to each week of less than full-time schedule of work in a current benefit year, his employing unit, if so requested by the employee or ex-employee, shall furnish to such employee or ex-employee evidence concerning his partial unemployment. Such evidence shall be in ink or typewritten and shall be furnished within 48 hours after such request, or on the scheduled payday for the period which contains the last day of the week covered by such request, whichever is later.

Such evidence shall show:

(a) The name of the employing unit.

(b) The name and social security account number of the worker.

(c) The beginning and ending date of such calendar week.

(d) The gross amount of wages earned in such calendar week.

(e) The following certification - "reduced hours because of lack of work"; and/or any information known to the employing unit as to the time lost by the worker because of his unavailability for work offered.

(f) A signature (actual or facsimile) by the employing unit to the above certification, or other positive identification of the authority supplying the evidence.

(6) Every employing unit having knowledge of an anticipated mass separation of its employees, shall give notice thereof to the public employment office nearest to the place wherein is located the particular establishment, 48 hours prior to the effective date of such separation.

(7) In cases of unemployment due to a stoppage of work because of a labor dispute, the employing unit shall within 48 hours file with the public employment office nearest to the place wherein is located the particular establishment, a notice setting forth the existence of such dispute and the approximate number of workers affected. Upon request by the Commissioner or his authorized representative such employing unit shall furnish to the Department the name of employees ordinarily attached to the department or the establishment where unemployment is caused by stoppage of work due to a labor dispute.

(8) A return by an employing unit of a notice of claim filed shall be made within the prescribed time. Such return may be made by delivery in hand, by mail, or by an electronic medium device approved by the Commissioner. If such return is made by mail, it shall be deemed returned as of the date indicated by the postal cancellation stamp thereon. If such return is made by electronic medium, it shall be deemed returned as of the date received by the Department. The "eight days after receipt" within which such notification shall be returned, or, when a notice is mailed, the term "ten days after mailing" shall include Saturdays, Sundays and legal holidays; except that when the last day of this ten-day period falls on a Saturday, Sunday or legal holiday, the return of said notice shall be timely if performed on the next succeeding business day.

## 5.02: continued

A timely return by a most recent employing unit or other person of a notice of claim filed with a statement merely questioning the claimant's eligibility under the provisions of M.G.L. c. 151A, § 24(b) shall nevertheless bar such employing unit or other person from being a party to further proceedings relating to the allowance of the claim unless such statement so furnished is supported by factual information.

All such returns by an employing unit shall be verified by a written declaration that they are made under the pains and penalties of perjury.

(9) Employers or their legal representatives shall report to the Department immediately any change in name, address, ownership or form of organization.

(10) Whenever a transfer of business occurs under the provisions of M.G.L. c. 151A, notice of such transfer shall be reported to the Commissioner in writing at once by both the transferring employer and the employer to which the transfer was made. Failure on the part of any successor to give notice within 120 days of the date of transfer shall bar the taking over by such successor of the account of any transferring employer having a plus balance, unless it is determined by the Commissioner that the successor had good cause for failing to give such notice within such time. Examples of good cause for failure to file timely notice include the following:

(a) A Department of Employment and Training employee directly discouraged or provided misinformation to the successor resulting in the successor not giving timely notice of transfer.

(b) Any other circumstances beyond the successor's control which prevented the giving of timely notice of transfer.

In no event shall good cause be considered if the successor fails to give such notice within 180 days of the date of transfer.

(11) Whenever a worker, who at the time has been employed for at least one week, is separated from his work (permanently or for an indefinite period, or for an expected duration of seven or more days) under any conditions, the employer, at the time of such separation, shall deliver to such worker a form furnished or approved by the Department of Employment and Training which shall contain the employer's name and the address to which requests for wages would be sent and the employer's identification number assigned by the Department of Employment and Training.

(12) Reporting Requirements General. For the purposes of M.G.L. c. 151A, § (14)(i), an employer newly subject to M.G.L. c. 151A is one which was never previously subject to M.G.L. c. 151A or, if previously subject, ceased to be subject under the provisions of M.G.L. c. 151A, § (11) and, in either case, is not a transferee within the meaning of M.G.L. c. 151A, § (11)(n) and is not newly subject under the provisions of M.G.L. c. 151A, § (8)(d), (g) or (h).

5.03: Contribution Reports

(1) No employer shall be permitted to make contributions, excepting on the basis of wages paid.

(2) The employer's contributions accrue at the time the wages are actually or constructively paid by the employer.

(a) Wages are constructively paid when they are credited to the account of or set apart for the employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made; must be made available to him so they may be drawn at any time; and their payment must be brought within his own disposition.

(b) Wages, earned from an insolvent employer, due but unpaid shall be deemed to have been paid when earned for the purpose of establishing an individual's benefit rights.

(3) Each employer who is determined to be liable for contributions, shall be liable on so much of his payroll as is subject to M.G.L. c. 151A, § 14 or 14C. Liability for contributions is on wages paid by an employer in each calendar year to any individual performing service for him that is subject in Massachusetts. This is without regard to:

(a) Any earnings which he may have had in employment not subject under M.G.L. c. 151A.

(b) Any employment which the individual may have had with another employer in the same calendar year whether or not subject in Massachusetts.

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5.03: continued

- (4) Contributions on wages paid by an employer shall be due and payable on the last day of the first month succeeding the quarter in which such wages were paid.
- (a) Beginning with the quarter ending December 31, 2007, employers who file quarterly unemployment insurance contribution reports which report a total quarterly payroll of \$50,000 or more shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
- (b) Beginning with the quarter ending December 31, 2007, employers who file quarterly unemployment health insurance contribution reports which report a total quarterly payroll of \$50,000 or more shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
- (c) Any employer that becomes subject to the provisions of 430 CMR 5.03(4)(a) or (b) remains subject to such provisions even if the total quarterly payroll it reports drops below the threshold specified in 430 CMR 5.03(4)(a) and (b).
- (d) Beginning with the quarter ending December 31, 2008, all employers who file quarterly unemployment insurance contribution reports shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
- (e) Beginning with the quarter ending December 31, 2008, all employers who file quarterly unemployment health insurance contribution reports shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
- (f) The Commissioner may assess a penalty as set forth in M.G.L. c. 151A, § 15(a) or M.G.L. c. 151A, § 14G(g), whichever is applicable, against employers who are required to file quarterly unemployment insurance contribution reports and employers who are required to file quarterly unemployment health insurance contribution reports using electronic transmittal as prescribed by the Commissioner and who file but fail to use such electronic transmittal.
- (5) The due date for the filing of reports and the payment of contributions for the quarters which have elapsed because of any retroactive effect of M.G.L. c. 151A on a subject determination of an employer shall be the last day of the first month succeeding the month in which the fact occurred making the employing unit subject. The due date for reports for each subsequent quarter shall be the last day of the first month succeeding the date on which the quarter ended.
- (6) Whenever any individual or type of organization engaging the service of another believes the relationship of employer and employee does not exist, he or it shall file with the Commissioner a statement of relevant facts for determination. The individual performing the service shall be deemed an employee until and unless the Commissioner determines otherwise.
- (7) If a part of the service performed by an individual in the employ of an employing unit during a pay period constitutes employment, that part shall be deemed to be included services notwithstanding that the remainder does not constitute employment. If part of the service is in employment and part is not in employment as defined but such parts cannot be separated, the whole of such service shall be deemed to be in employment.
- (8) While an employer is subject to the law, and until his liability for filing contribution reports has been suspended by the Department, such reports shall be submitted by such employer, even though no wages were paid, for each quarter during which he is subject to the law.
- (9) The prescribed employer quarterly contribution form will be regularly furnished each employer by the Department without application therefor insofar as possible. Employers not supplied with the proper form shall make application therefor to the Department in ample time to have their reports prepared, verified, and filed with the Department on or before the due date.
- (10) Any employing unit which would otherwise be subject to M.G.L. c. 151A because of the provisions of 430 CMR 5.02(2)(b) shall be exempt from M.G.L. c. 151A until its payroll for services performed in Massachusetts is in excess of \$200.00 in a quarter.
- (11) For the purposes of M.G.L. c. 151A the term "agricultural labor" as used in section 6(a), except as otherwise provided in M.G.L. c. 151A, §§ 4A(d) and (e) shall have the meaning assigned to such term by subsection (g) of section 3121 of the Internal Revenue Code of 1954.

5.03: continued

- (12)(a) Each employer shall insure that any third party which makes a payment included in the term "wages" solely by reason of M.G.L. c. 151A, § 1(s)(A)(1)(i) notifies such employer for whom the payee performed services, within 15 days of payment, and provide the following information to said employer:
1. The name and social security account number of the payee.
  2. The amount of gross wages paid the payee pursuant to M.G.L. c. 151A, § 1(s)(A)(1)(i).
- (b) The wages described in M.G.L. c. 151A, § 1(s)(A)(1)(i) shall be deemed paid when the employer receives the notice or otherwise obtains knowledge of the payment.
- (c) The employer shall pay contributions on said wages as required by M.G.L. c. 151A.

(13) Use of Payroll Processing Services.

- (a) An employer may use a payroll processing service to file quarterly unemployment insurance contribution reports and quarterly unemployment health insurance contribution reports with the Commissioner. In such situations, the employer and the payroll processing service shall be subject to the following provisions:
1. All payroll processing services who file quarterly unemployment insurance contribution reports on behalf of 500 employers or more for at least one quarter during a calendar year shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
  2. All payroll processing services who file quarterly unemployment health insurance contribution reports on behalf of 500 employers or more for at least one quarter during a calendar year shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
  3. Beginning with the quarter ending December 31, 2007, all payroll processing services who file quarterly unemployment insurance contribution reports on behalf of any employers for any quarter during a calendar year shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
  4. Beginning with the quarter ending December 31, 2007, all payroll processing services who file quarterly unemployment health insurance contribution reports on behalf of any employers for any quarter during a calendar year shall file such reports using a form and means of electronic transmittal prescribed by the Commissioner.
- (b) All payroll processing services subject to 430 CMR 5.03(13)(a)1. through 4. shall remit payment covering the total liability of all employers for whom such reports are submitted either in the form of a single check enclosed with the reports or through a single electronic funds transfer in a form prescribed by the Commissioner.
- (c) Any payroll processing service that makes payment through electronic funds transfer shall register with the Division in accordance with the procedures prescribed by the Commissioner and by a date as determined by the Commissioner. A payroll processing service need register only one time; provided, that any changes in the information listed on the registration form must be reported immediately to the Commissioner.
- (d) To be timely paid, a payment made through electronic funds transfer must be credited to the Division's designated bank account by the statutory payment due date for each quarter. If the statutory date for making such payment falls on a Saturday, Sunday or legal holiday, payment may be timely made on the next succeeding business day.
- (e) A payroll processing service that becomes subject to 430 CMR 5.03(13)(a) through (d) remains subject to even if the number of employers for which it is reporting drops below the threshold number specified in 430 CMR 5.03(13)(1)(a)1. and 2.
- (f) Failure of a payroll processing service to comply with 430 CMR 5.03(13)(a) through (e) may result in the payroll processing service losing permission to file reports on behalf of employers.

5.04: Wage Reports

- (1) All base period employers as reported by a claimant for benefits will be requested to provide wage earning reports. Whenever an employer is requested to report an individual's base period wages, he will be required within ten days of the date of notice to report all the base period wages paid to such individual by him during the base period whether or not such wages were subject to contributions under the provisions of M.G.L. c. 151A, §14 except that he shall not report:

NON-TEXT PAGE

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### 5.04: continued

(a) Any payment made to an employee under the provisions of M.G.L. c. 151A, § 1(s) of said law which is defined as not "wages" and

(b) Any remuneration for exempted service as provided in M.G.L. c. 151A, § 6.

Such report may be returned by delivery in hand, by mail, or by facsimile transmission (fax).

(2) The term "within ten days of the date of notice" referred to in 430 CMR 5.04(1) shall include Saturdays, Sundays and legal holidays, except that when the last day of this ten-day period falls on a Saturday, Sunday or legal holiday, the filing of said notice or the faxing or the mailing thereof shall be timely if performed on the next succeeding business day.

(3) Whenever an employer has failed to provide wage information within the time limit prescribed in 430 CMR 5.04(1), the Commissioner shall establish the claimant's benefit rights on the basis of the claimant's own statement of wages received in such employment with said employer supplemented by such other evidence as may be available and satisfactory to the Commissioner.

(4) Whenever an employer who has received a penalty notice for failure to provide wage information within the required time believes that he had good cause for such failure, he may within ten days after the mailing date of such penalty notice make written application to the Commissioner to remove the penalty, setting forth the reasons why he believes that his failure to comply was with good cause. An employer may be considered to have good cause provided he can establish to the satisfaction of the Commissioner that such failure was without fault on the part of the employer or his agent and was due to circumstances over which he had no control. A subsequent determination by the Commissioner that the employer's failure to provide wage information within the time required was without good cause shall be final.

### 5.05: Experience Rating

(1) Benefits for partial unemployment shall be charged in the same manner as for benefits in total unemployment, except that no charge shall remain against the account of any subsidiary employer who timely protests and who shows to the satisfaction of the Commissioner that it has continued to employ a claimant during the weeks of his claim to the same extent that it had previously employed him. In the event that the subsidiary employer is liable for payments in lieu of contributions, then the principal employer will be charged to the extent possible as provided in M.G.L. c. 151A, § 14(d)(3) prior to any later charges to the account of the subsidiary employer.

(2) Charges made to employer accounts as a result of benefit payments made on claims with effective dates after December 31, 1951, which payments are later discovered to have been illegally made, may be removed from the account of the employer who was charged for the specific weeks so paid; except that, if such employer has received a notice of claim filed and his failure to have returned such notice contributed directly or indirectly to the allowance of the illegal payments, the charges shall nevertheless stand on the account of such employer; provided further, that no adjustment of a charge made in error shall be made unless request for adjustment is made within the time specified in M.G.L. c. 151A, § 71(1).

(3) In relation to an employer's account as of a computation date:

(a) If an employer has no taxable wages but has a balance, such employer's reserve percentage shall be deemed to be zero positive if the account balance is positive; or, zero negative if the account balance is negative.

(b) If an employer has a zero account balance, such employer's reserve percentage shall be deemed to be zero positive.

(4) With respect to any claim filed, if any base period employer shall show to the satisfaction of the Commissioner that the worker became separated from his last employment with such employer solely for the purpose of accepting work with another employing unit by which he had been hired, charges with respect to benefits paid to such a worker shall not be chargeable to such employer's account but shall be charged to the solvency account.

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(5) Extended benefits paid to an individual under M.G.L. c. 151A, § 30A shall be charged in accordance with the provisions of M.G.L. c. 151A, § 14(d)(3) to the accounts of the employers who reported base period wages which were used to establish such benefits. The Commissioner shall compute such charges by dividing the wages paid the individual by the employer in the base period by the total wages paid the individual by all employers in the base period. Such charges shall be made to the accounts of the most recent and next most recent employers in the inverse chronological order of the base period employment of the individual, provided, that whenever it is found that such individual was in employment with two or more employers in any quarter of the base period and the order of such employment cannot be readily determined, the Commissioner shall prescribe the manner in which such charges will be made.

### 5.06: Non-profit Organizations and Governmental Employers, Payment in *Lieu* of Contributions

(1) Payment of any bill rendered to a non-profit organization or governmental employer, shall be made not later than 30 days after such bill is mailed or delivered to the last known address of the employer.

(2) An application for review which protests certain charges contained in the bill must specify both the reasons for such protest as well as the supporting factual information relied upon. Merely furnishing a statement questioning the items charged shall result in an affirmance of the original determination by the Commissioner.

(3) Timely payment is required on all items which are not the subject of the protest.

(4) Past due reimbursement payments in lieu of contributions shall be subject to the same interest, penalties and collection provisions provided for in M.G.L. c. 151A, § 15.

(5) All non-profit organizations and governmental employers which have elected to make payments in *lieu* of contributions pursuant to M.G.L. c. 151A, § 14A shall file in the form and manner as prescribed by the Commissioner a quarterly report on wages and employment. The due date for filing the reports shall be the last day of the first month succeeding the date on which the quarter ended.

## EMPLOYEE LEASING

### 5.07: Purpose

The purpose of 430 CMR 5.07 through 430 CMR 5.13, inclusive, is to establish procedures regarding reporting requirements for employee leasing companies and their clients.

### 5.08: Scope and Applicability

430 CMR 5.07 through 5.13 apply to employee leasing companies and their clients.

### 5.09: Definitions

The following words and phrases shall have the following meanings, unless otherwise clearly indicated by the context of 430 CMR 5.07 through 5.13:

Client Company: an individual, association, partnership, corporation or other business entity that agrees to or is leasing its employees through an employee leasing company on a long term basis.

Commissioner: Commissioner of the Department of Employment and Training or designee.

Department: the Department of Employment and Training.

Employee Leasing Company: an employing unit that contracts with a client company to supply workers to perform services for the client company; provided that, the term employee leasing company does not include private employment agencies that provide workers to employers on a temporary help basis or entities such as driver-leasing companies which lease employees to an employing unit to perform a specific service.

Employer: any employing unit subject to M.G.L. c. 151A.

5.09: continued

Employing Unit: a sole proprietorship, partnership, corporation or other form of business entity which has one or more individuals performing services for wages within the Commonwealth.

#### 5.10 Reporting Requirements

- (1) Each employee leasing company doing business in the Commonwealth shall register with the Department in accordance with the instructions printed on the forms issued by the Department.
- (2) Each employing unit intending to contract with an employee leasing company for the supply of workers shall notify the Department at least 60 days prior to the next due date for the payment of unemployment insurance contributions. Such notice, signed by such employing unit, may be transmitted to the Department by the employee leasing corporation.
- (3) Any employer which terminates a contract with the employee leasing company must notify the Department of such termination within 30 days following the termination of the contract.
- (4) Employee leasing companies shall provide the Department a list of their client companies annually on or before December 31 of each year. Such list shall include the client's name, address, employer account number and federal employer identification number (FEIN).
- (5) Employee leasing companies shall notify the Department when a client company establishes or terminates a contract with them within 30 days of such event. Such notice shall include the employer's name, address, employer account number and FEIN.
- (6) Properly registered employee leasing companies, whose client companies have notified the Department, may file quarterly contribution reports and pay contributions on behalf of their clients, and may also file Health Insurance reports and pay unemployment health insurance contributions on behalf of their client companies; provided, that such reports and contributions are paid for all employees of their client companies.
- (7) Each employee leasing company shall report and pay contributions under the employer account number and at the experience rate assigned to the client company by the Department. New employers, or those which have not previously registered with the Department, shall establish their own employer account number by filing an Employer Status Report with the Department.
- (8) Each employee leasing company shall keep payroll records in such a manner that separate records can be produced for employees of its client companies.

#### 5.11: Benefit Charges

The Department shall charge unemployment insurance benefits against the client company's account in accordance with the provisions of M.G.L. c. 151A. The Department shall mail notice of benefits charged to client accounts to the employee leasing company following the close of the month in which such benefits were paid.

#### 5.12: Experience Rates

The Department shall establish annually experience rates for the client companies based on their individual status as an employer. Employee leasing companies, in compliance with the notice provision of 430 CMR 5.00, may be provided with rate information for properly registered client companies.

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### 5.13: Miscellaneous

- (1) Employing units for whom services for wages are performed will be considered the employer of the worker.
- (2) Except where inconsistent with 430 CMR 5.00 all other rules and regulations of the Department shall apply to the employee leasing companies and client companies.
- (3) Employee leasing companies and client companies shall comply with the procedures prescribed by the Commissioner.

## EMPLOYMENT AND WAGE REPORTING

### 5.20: Purpose

The purpose of 430 CMR 5.20 through 430 CMR 5.23 is to establish procedures regarding registration and reporting requirements for employers subject to the provisions of M.G.L. c. 151A, § 14P.

### 5.21: Scope and Applicability

430 CMR 5.20 through 5.23 applies to all employers subject to the provisions of M.G.L. c. 151A, § 14P.

### 5.22: Definitions

The following words and phrases shall have the following meanings, unless otherwise clearly indicated by the context of 430 CMR 5.20 through 5.23

Director. The Director of the Division of Unemployment Assistance

Division. The Division of Unemployment Assistance as established by M.G.L. c. 23H, § 3.

Employer. An employing unit subject to the provisions of M.G.L. c. 151A, § 14P

Employing Unit. A sole proprietorship, partnership, corporation, or other form of business entity which has one or more individuals performing services for wages

Third Party Agent. An individual or organization that is authorized to represent employers with respect to the filing of employment and wage reports, the payment of contributions or payments in lieu of contributions and any other related matters with the Division

### 5.23: Registration and Reporting Requirements

- (1) All employers who are or become subject to the provisions of M.G.L. c. 151A or who are or become subject to the provisions of M.G.L. c. 62B shall register with the Division in the time, form and manner as may be prescribed by the Director.
- (2) Beginning with reports due for the calendar quarter ending December 31, 2009, every employer shall submit in the time, form and manner as may be prescribed by the Director a report containing such employment and wage data as specified by the Director.
- (3) Beginning with the calendar quarter ending December 31, 2009, all employers shall file the reports specified in 430 CMR 5.23(2) using a form and means of electronic transmittal as prescribed by the Director unless another means of transmittal is authorized by the Director. The Director may assess upon each employer who fails to file such report as required by 430 CMR 5.20 through 5.23 a penalty as specified in M.G.L. c. 151A, § 14P(e).
- (4) Notwithstanding the provisions of 430 CMR 5.03(4), for the quarter ending December 31, 2009, the Director for good cause may deem contributions to be paid timely if they are paid on or before February 15, 2010.

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(5) An employer may authorize a third party agent to file on its behalf the reports required by 430 CMR 5.23(2) and to make any payments required by M.G.L. c. 151A. The employer shall provide the Division with the name of the third party agent and shall notify the Division immediately when such third party agent is no longer authorized to represent it. The employer agrees to be bound by any actions taken on its behalf by the third party agent. The Division reserves the right not to allow a third party agent to represent an employer in its filings with the Division.

### REGULATORY AUTHORITY

430 CMR 5.00: M.G.L. c. 23, § 9J; c. 151A, §§ 1, 2, 6, 8(b), 13, 14, 14A, 14A(f), 14(d)(1), 14(d)(3), 14(n)(1), 38(a), 38(b) and 45.

NON-TEXT PAGE