Opportunity * Guidance * Support

CONNECTICUT DEPARTMENT OF LABOR

Patricia H. Mayfield
Commissioner

April 24, 2009

By FAX to: (202) 693-2874
Attn: Division of UC Legislation

Ms. Cheryl Atkinson
Administrator
Office of Workforce Security
200 Constitution Avenue, N.W.
Room S-4231
Washington, D.C. 20210

Dear Ms. Atkinson:

As the Administrator of Connecticut's Unemployment Compensation Act, I am authorized to take such action as may be necessary to secure for the state and its citizens all advantages available under the provisions of federal law relating to unemployment compensation. Conn. Gen. Stat. Sec. 31-250 (b). On behalf of the State of Connecticut, I am applying for a second Unemployment Compensation Modernization Incentive payment pursuant to Section 2003(a) of Public Law 111-5.

Connecticut's application for its first UC Modernization Incentive payment based upon inclusion of an "alternate base period" provision in its state unemployment insurance law was certified by your office on April 7, 2009. This application for the remaining two-thirds of its UC Modernization Incentive payment is premised on inclusion of two of the four provisions enumerated in Section 903(f)(3) of the Social Security Act, as amended by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), in Connecticut's unemployment insurance law.

The first of these provisions is Section 31-234 of the Connecticut General Statutes which provides unemployment insurance claimants a dependency allowance of $15 per dependent (as defined within the statute) per week, which is subject to an aggregate limitation of the lesser of seventy-five (75) dollars or one hundred (100) percent of the claimant's total unemployment benefit rate. This provision conforms to the requirements of Section 903(f)(3)(D) of the Social Security Act, as amended. A true and accurate copy of Section 31-234 of the Connecticut General Statutes is attached as Exhibit A.

The second federal law provision that Connecticut has enacted into its unemployment insurance law is the prohibition on disqualification for leaving suitable work for any "compelling family reason," as defined in Section 903(f)(3)(B). Specifically, on April 15, 2009, Governor M. Jodi Rell signed into law Public Act 09-3, which became effective on passage. This legislation amends Section 31-236(a)(2)(A) of the Connecticut General Statutes by enacting a "trailing spouse" provision and amended Connecticut's existing prohibitions on disqualification for leaving employment due to domestic violence or the illness or disability of a family member. A true and accurate copy of Public Act 09-3 is attached as Exhibit B.

Public Act 09-3 amended section 31-236(a)(2)(A) of the Connecticut General Statutes to ensure the inclusion of the three "compelling family reasons" defined in Section 903(f)(3)(B) as follows:

- Section 31-236(a)(2)(A)(ii) of the Connecticut General Statutes, as amended by Public Act 09-3, provides that an individual shall not be ineligible for benefits if the individual leaves suitable work to care for the individual's spouse, child or parent with an illness or disability that has been diagnosed by a health care provider and that necessitates care for the ill or disabled family member for a period of time longer than the employer is willing to grant leave, paid or otherwise. The definition of "health care provider" is broad, and is found in section 31-236(a)(16).
- Section 31-236(a)(2)(A)(iv) of the Connecticut General Statutes, as amended by Public Act 09-3, provides that an individual shall not be ineligible for benefits if the individual leaves suitable work to protect the individual, the individual's child, the individual's spouse, or the individual's parent from becoming or remaining a victim of domestic violence.
- Section 31-236(a)(2)(A)(vi) of the Connecticut General Statute, as amended by Public Act 09-3, provides that an individual shall not be ineligible for benefits if the individual leaves suitable work to accompany such individual's spouse to a place from which it is impractical for such individual to commute due to a change in location of the spouse's employment.

The requirements for verification of domestic violence are set forth in Section 31-236-23a of the Regulations of Connecticut State Agencies, a true and accurate copy of which is attached as Exhibit C. Specifically, subsection (c) of the regulation, in pertinent part, provides as follows:

> (c)(1) The Administrator shall consider the specific facts and circumstances of the individual, the employment, and the domestic violence involved in determining eligibility under this section. The individual shall provide the Administrator with available evidence necessary to support the individual's claim that he or she left the employment in order to protect the individual or a child domiciled with the individual from becoming or remaining a victim of domestic violence. Evidence of domestic violence may include, but is not limited to: (A) police, government agency or court records; (B) documentation from a shelter worker, legal, medical,

clerical or other professional from whom the individual has sought assistance in dealing with domestic violence; or (C) a statement from an individual with knowledge of the circumstances which provide the basis for the claim of domestic violence.

(2) An individual's allegations of domestic violence, if found credible by the Administrator or trier of fact, may be sufficient to make an affirmative determination of the fact of domestic violence.

(3) The filing of a civil or criminal complaint against the alleged abuser shall not be required as a prerequisite in order to establish the fact of domestic violence. Nor shall such complaint be required to establish reasonable efforts to preserve the employment.

These evidentiary guidelines establish reasonable verification requirements. While police, government agency and court records may constitute sufficient evidence of domestic violence, they are not required. Similarly, records of the claimant having sought assistance in dealing with the domestic violence and knowledgeable third-party accounts may constitute sufficient evidence, but they are not required. As stated in subdivision (2), the claimant's credible allegation may, by itself, be sufficient to make an affirmative determination of domestic violence. Finally, please note that while the regulation alludes to domestic violence against the individual or child domiciled with the individual, Public Act 09-3 has amended the statute to include domestic violence against the individual's parent and spouse and has eliminated the domicile requirement. The regulation is being amended to reflect the changes made by Public Act 09-3 and the verification requirements above are now applicable to domestic violence against parents and spouses as well.

Connecticut's misconduct provisions are found in Conn. Gen. Stat. section 31-236-2(a)(2)(B) (See Public Act 09-3) and sections 31-236-26a, 31-236-26b and 31-236-26d of the Regulations of Connecticut State Agencies. True and accurate copies of these regulations are attached as Exhibits D, E and F, respectively.

Section 31-236(a)(2)(B) of the Connecticut General Statutes provides that an individual shall be ineligible for benefits if, "in the opinion of the administrator, the individual has been discharged or suspended for ...wilful misconduct in the course of the individual's employment." Section 31-236(a)(16) of the Connecticut General Statutes defines "wilful misconduct" in three ways: (1) deliberate misconduct in wilful disregard of the employer's interest; (2) a single knowing violation of a reasonable and uniformly enforced rule or policy of the employer, when reasonably applied, provided such violation is not a result of the employee's incompetence; and, (3) in the case of absence from work, "wilful misconduct" means an employee must be absent without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances for three separate instances within a twelve-month period. A "separate instance" for purposes of absenteeism is defined as "each instance in which an employee is absent for one day or two consecutive days without

either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances.

Section 31-236-26a of the regulations pertains to the "deliberate misconduct" definition of "wilful misconduct." Section 31-236-26b of the regulations pertains to the "knowing violation" definition of wilful misconduct. Section 31-236-26d of the regulations pertains to the absenteeism definition of wilful misconduct. These regulatory provisions establish that Connecticut's unemployment insurance law does not disqualify individuals who are discharged due to compelling family reasons, because, under the regulations, misconduct attributable to compelling family reasons does not constitute wilful misconduct.

Specifically, section 31-236-26a of the regulations provides that an individual's action does not constitute wilful misconduct under the "deliberate misconduct" definition if it is motivated or seriously influenced by mitigating circumstances of a compelling nature, such as events or conditions which left the individual with no reasonable alternative course of action, or an emergency situation in which a reasonable individual in the same circumstances would have take the same course of action, even though knowing that it was contrary to the employer's expectation of interest.

Section 31-236-26b of the regulations provides that, even if an individual engaged in a knowing violation of a reasonable employer rule or policy, the Administrator may only find that the application of the rule or policy was reasonable if there were no compelling circumstances that prevented the individual from adhering to the rule or policy.

Section 31-236-26d of the regulations provides that an individual's absence from work only constitutes wilful misconduct if the individual did not have "good cause" for an absence or did not provide notice of such absence to the employer which could have been reasonably provided under the circumstances. The regulation specifies that "good cause" means any compelling personal circumstance which would prevent a reasonable person under the same conditions from reporting for work, such as conditions constituting a family emergency. Moreover, the regulation specifically provides in subsection (e) that the Administrator shall not find that an individual could have reasonably provided notice if the individual's failure to provide notice was due to compelling personal circumstances which would have prevented a reasonable person in the same circumstances from providing notice.

The three definitions of wilful misconduct are clear and unambiguous, and provide that discharges which are due to the compelling family reasons referenced in Section 903(f)(3) of the Social Security Act are not disqualifying because such compelling family reasons preclude a finding of wilful misconduct under state law.

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Section 31-236-26b of the regulations provides that, even if an individual engaged in a knowing violation of a reasonable employer rule or policy, the Administrator may only find that the application of the rule or policy was reasonable if there were no compelling circumstances that prevented the individual from adhering to the rule or policy.

Section 31-236-26d of the regulations provides that an individual's absence from work only constitutes wilful misconduct if the individual did not have "good cause" for an absence or did not provide notice of such absence to the employer which could have been reasonably provided under the circumstances. The regulation specifies that "good cause" means any compelling personal circumstance which would prevent a reasonable person under the same conditions from reporting for work, such as conditions constituting a family emergency. Moreover, the regulation specifically provides in subsection (e) that the Administrator shall not find that an individual could have reasonably provided notice if the individual's failure to provide notice was due to compelling personal circumstances which would have prevented a reasonable person in the same circumstances from providing notice.

The three definitions of wilful misconduct are clear and unambiguous, and provide that discharges which are due to the compelling family reasons referenced in Section 903(f)(3) of the Social Security Act are not disqualifying because such compelling family reasons preclude a finding of wilful misconduct under state law.

The Connecticut Department of Labor anticipates expending its second UC Modernization Incentive payment ($58,540.892) on the payment of unemployment benefits.

Attached are the required certifications in support of this application.

If your office has any question or concerns regarding this application, please contact the Department's Director of Program Policy, George Wentworth at (860) 263-6762 or george.wentworth@ct.gov.

Sincerely,

Patricia H. Mayfield
Commissioner

Attach.

cc: Jerry Hildebrand
Grace Kilbane

STATE OF CONNECTICUT
Department of Labor
200 Folly Brook Boulevard
Wethersfield, CT 06109

CERTIFICATION

I hereby certify that:

- As Connecticut's Commissioner of Labor, I am designated by statute as Administrator of Connecticut's Unemployment Compensation law (Chapter 567 of the Connecticut General Statutes).
- Attached as Exhibit A is a true and accurate copy of Section 31-234 of the Connecticut General Statutes.
- Section 31-234 of the Connecticut General Statutes is the Connecticut statute that provides unemployment insurance claimants a dependency allowance of $15 per dependent (as defined within the statute) per week, which is subject to an aggregate limitation of the lesser of seventy-five (75) dollars or one hundred (100) percent of the claimant's total unemployment benefit rate.
- Section 31-234 is currently in effect and is a permanent provision in Connecticut law that is not subject to discontinuation under any circumstances other than repeal by the Connecticut General Assembly.
- Attached as Exhibit B is a true and accurate copy of Public Act 09-3.
- Public Act 09-3 was signed into law by Governor M. Jodi Rell on April 15, 2009, and became effective upon passage.
- Attached as Exhibit C is a true and accurate copy of section 31-236-23a of the Regulations of Connecticut State Agencies.
- Subparagraph (A) of subdivision (2) of subsection (a) of section 31-236 of the general statutes, as amended by Public Act 09-3, prohibits disqualification for leaving suitable work for compelling family reasons which conform to the requirements of Section 903(f)(3) of the Social Security Act, as amended by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).
- Section 31-236(a)(2)(A)(ii) of the Connecticut General Statutes, as amended by Public Act 09-3, provides that an individual shall not be ineligible for benefits if the individual leaves suitable work to care for the individual's spouse, child or parent with an illness or disability that has been diagnosed by a health care provider and that necessitates care for the ill or disabled family member for a period of time longer than the employer is willing to grant leave, paid or otherwise. The definition of "health care provider" is broad, and is found in section 31-236(a)(16).
- Section 31-236(a)(2)(A)(iv) of the Connecticut General Statutes, as amended by Public Act 09-3, provides that an individual shall not be ineligible for benefits if the individual leaves suitable work to protect the individual, the individual's

child, the individual's spouse, or the individual's parent from becoming or remaining a victim of domestic violence.

- Section 31-236(a)(2)(A)(vi) of the Connecticut General Statute, as amended by Public Act 09-3, provides that an individual shall not be ineligible for benefits if the individual leaves suitable work to accompany such individual's spouse to a place from which it is impractical for such individual to commute due to a change in location of the spouse's employment.
- Section 31-236(a)(2)(B), which can be found in Public Act 09-3, Exhibit B, attached hereto, sets forth Connecticut's wilful misconduct provisions. Connecticut state law defines "wilful misconduct" in section 31-236(a)(16) of the Connecticut General Statutes, as well as in sections 31-236-26a, 31-236-26b and 31-236-26d of the Regulations of Connecticut State Agencies. True and accurate copies of the regulations are attached as Exhibits D, E and F. Application of these state law provisions to discharges due to compelling family reasons, such as those referenced in Section 903(f)(3) of the Social Security Act, as amended by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), would not result in disqualification from benefits because such compelling family reasons preclude a finding of wilful misconduct under state law.
- Section 31-236, as amended by Public Act 09-3, is currently in effect and is a permanent provision in Connecticut law that is not subject to discontinuation under any circumstances other than repeal by the Connecticut General Assembly.

Dated in Wethersfield, Connecticut this 24th day of April, 2009.

Patricia H. Mayfield
Commissioner
Connecticut Department of Labor

Before me personally appeared Patricia H Mayfield known to me, and made oath to the truth of the matters contained herein.

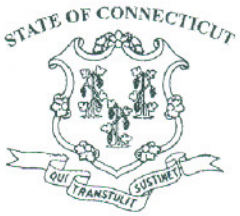
George M. Wentworth, Esq.
George M. Wentworth
Commissioner of the Superior Court

EXHIBIT A

Sec. 31-234. Dependency allowances. Each individual who is eligible to receive benefits for unemployment with respect to any week shall be paid with respect to such week a dependency allowance of fifteen dollars for such individual's nonworking spouse, as defined by regulation, living in the same household with such individual and for each of such individual's children or stepchildren who at the beginning of the individual's current benefit year were being wholly or mainly supported by such individual and were under eighteen years of age or under twenty-one years of age and in full-time attendance in a secondary school, a technical school, a college, or state accredited job training program, or who at the beginning of the individual's benefit year were mentally or physically handicapped and because of such handicap were being wholly or mainly supported by such individual, but in no event shall such allowances exceed the number of whole dollars in one hundred per cent of the total unemployment benefit rate of such individual or be paid with respect to more than five dependents. If the individual acquires any additional dependents in the course of a benefit year, the dependency allowance shall be adjusted accordingly during the next following complete calendar week. Dependency allowances shall be in addition to the unemployment benefits otherwise payable and shall not be considered part of an individual's total unemployment benefit rate but shall be counted in the amount of maximum benefits provided in section 31-232a and no dependency allowance shall be payable with respect to any week unless an unemployment benefit is also payable with respect to such week. If both a husband and a wife receive benefits with respect to a week of unemployment, neither shall be entitled to a dependency allowance with respect to the other and only one of them shall be entitled to a dependency allowance with respect to any child or stepchild.

(1949 Rev., S. 7506; 1957, P.A. 464, S. 4; February, 1965, P.A. 550, S. 3; 1967, P.A. 790, S. 12; 1971, P.A. 341; P.A. 75-135; P.A. 77-426, S. 10, 19; P.A. 80-373, S. 1, 3; P.A. 99-154; June Sp. Sess. P.A. 99-1, S. 44, 51.)

EXHIBIT B



House Bill No. 6715

Public Act No. 09-3

AN ACT CONCERNING CERTAIN STATE PROGRAMS AND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) At least fourteen days prior to the submission by the Office of Policy and Management of the detailed comprehensive application prepared pursuant to the American Recovery and Reinvestment Act of 2009, P.L. 111-5, to the United States Secretary of Energy for State Energy Program grant funds, said office shall submit such detailed comprehensive application to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and energy. Not later than seven days after receipt of the Office of Policy and Management's detailed comprehensive application, said committees shall hold a subject matter public hearing on such detailed comprehensive application. At such subject matter public hearing, the Office of Policy and Management shall present testimony concerning the details of such comprehensive application.

Sec. 2. (*Effective from passage*) (a) Notwithstanding title 38a of the general statutes, in the case of an individual who did not have continuation of group health insurance coverage, pursuant to subsection (b) of section 38a-554 of the general statutes, in effect on

February 17, 2009, but who would be an assistance eligible individual, as defined in Section 3001(a)(3) of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, if such continuation of coverage had been in effect, such individual may elect to continue such coverage provided such election is made not later than sixty days after the notice required under subsection (c) of this section was provided to such individual.

(b) Continuation of coverage elected by an individual pursuant to subsection (a) of this section shall commence with the first period of coverage beginning on or after February 17, 2009, and shall not extend beyond the period that such continuation of coverage would have been allowed pursuant to subsection (b) of section 38a-554 of the general statutes if such coverage had been elected at the time such individual became eligible to elect such continuation of coverage.

(c) Each insurer and health care center that has issued a group health insurance policy subject to sections 38a-546 and 38a-554 of the general statutes shall, in conjunction with their group policyholders that are employers with fewer than twenty employees, provide notice not later than April 18, 2009, of the election period set forth in subsection (a) of this section to such individuals set forth in said subsection (a).

(d) If an individual elects continuation of coverage pursuant to subsection (a) of this section, the period beginning on the date such individual became eligible for such continuation of coverage and ending on the date the first period of such coverage begins on or after February 17, 2009, shall be disregarded for the purposes of determining whether coverage was continuous under subsection (c) of section 38a-476 of the general statutes.

Sec. 3. Section 31-236 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) An individual shall be ineligible for benefits:

(1) If the administrator finds that the individual has failed without sufficient cause either to apply for available, suitable work when directed so to do by the Public Employment Bureau or the administrator, or to accept suitable employment when offered by the Public Employment Bureau or by an employer, such ineligibility to continue until such individual has returned to work and has earned at least six times such individual's benefit rate. Suitable work means either employment in the individual's usual occupation or field or other work for which the individual is reasonably fitted, provided such work is within a reasonable distance of the individual's residence. In determining whether or not any work is suitable for an individual, the administrator may consider the degree of risk involved to such individual's health, safety and morals, such individual's physical fitness and prior training and experience, such individual's skills, such individual's previous wage level and such individual's length of unemployment, but, notwithstanding any other provision of this chapter, no work shall be deemed suitable nor shall benefits be denied under this chapter to any otherwise eligible individual for refusing to accept work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (B) if the wages, hours or other conditions of work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; (D) if the position offered is for work which commences or ends between the hours of one and six o'clock in the morning if the administrator finds that such work would constitute a high degree of risk to the health, safety or morals of the individual, or would be beyond the physical capabilities or fitness of the individual or there is no suitable transportation available from the individual's home to or from the

individual's place of employment; or (E) if, as a condition of being employed, the individual would be required to agree not to leave such position if recalled by the individual's former employer;

(2) (A) If, in the opinion of the administrator, the individual has left suitable work voluntarily and without good cause attributable to the employer, until such individual has earned at least ten times such individual's benefit rate, provided whenever an individual voluntarily leaves part-time employment under conditions that would render the individual ineligible for benefits, such individual's ineligibility shall be limited as provided in subsection (b) of this section, if applicable, and provided further, no individual shall be ineligible for benefits if the individual leaves suitable work (i) for good cause attributable to the employer, including leaving as a result of changes in conditions created by the individual's employer, (ii) to care for [a seriously ill] the individual's spouse, [or] child, or parent [domiciled with the individual, provided such illness is documented by a licensed physician] with an illness or disability, as defined in subdivision (16) of this subsection, (iii) due to the discontinuance of transportation, other than the individual's personally owned vehicle, used to get to and from work, provided no reasonable alternative transportation is available, (iv) to protect the individual, [or a child domiciled with the individual] the individual's child, the individual's spouse or the individual's parent from becoming or remaining a victim of domestic violence, as defined in section 17b-112a, provided such individual has made reasonable efforts to preserve the employment, but the employer's account shall not at any time be charged with respect to any voluntary leaving that falls under subparagraph (A)(iv) of this subdivision, [or] (v) for a separation from employment that occurs on or after July 1, 2007, to accompany a spouse who is on active duty with the armed forces of the United States and is required to relocate by the armed forces, but the employer's account shall not at any time be charged with respect to any voluntary leaving that falls under

subparagraph (A)(v) of this subdivision or (vi) to accompany such individual's spouse to a place from which it is impractical for such individual to commute due to a change in location of the spouse's employment, but the employer's account shall not be charged with respect to any voluntary leaving under subparagraph (A)(vi) of this subdivision; or (B) if, in the opinion of the administrator, the individual has been discharged or suspended for felonious conduct, conduct constituting larceny of property or service, the value of which exceeds twenty-five dollars, or larceny of currency, regardless of the value of such currency, wilful misconduct in the course of the individual's employment, or participation in an illegal strike, as determined by state or federal laws or regulations, until such individual has earned at least ten times the individual's benefit rate; provided an individual who (i) while on layoff from regular work, accepts other employment and leaves such other employment when recalled by the individual's former employer, (ii) leaves work that is outside the individual's regular apprenticeable trade to return to work in the individual's regular apprenticeable trade, (iii) has left work solely by reason of governmental regulation or statute, or (iv) leaves part-time work to accept full-time work, shall not be ineligible on account of such leaving and the employer's account shall not at any time be charged with respect to such separation, unless such employer has elected payments in lieu of contributions;

(3) During any week in which the administrator finds that the individual's total or partial unemployment is due to the existence of a labor dispute other than a lockout at the factory, establishment or other premises at which the individual is or has been employed, provided the provisions of this subsection do not apply if it is shown to the satisfaction of the administrator that (A) the individual is not participating in or financing or directly interested in the labor dispute that caused the unemployment, and (B) the individual does not belong to a trade, class or organization of workers, members of which,

immediately before the commencement of the labor dispute, were employed at the premises at which the labor dispute occurred, and are participating in or financing or directly interested in the dispute; or (C) the individual's unemployment is due to the existence of a lockout. A lockout exists whether or not such action is to obtain for the employer more advantageous terms when an employer (i) fails to provide employment to its employees with whom the employer is engaged in a labor dispute, either by physically closing its plant or informing its employees that there will be no work until the labor dispute has terminated, or (ii) makes an announcement that work will be available after the expiration of the existing contract only under terms and conditions that are less favorable to the employees than those current immediately prior to such announcement; provided in either event the recognized or certified bargaining agent shall have advised the employer that the employees with whom the employer is engaged in the labor dispute are ready, able and willing to continue working pending the negotiation of a new contract under the terms and conditions current immediately prior to such announcement;

(4) During any week with respect to which the individual has received or is about to receive remuneration in the form of (A) wages in lieu of notice or dismissal payments, including severance or separation payment by an employer to an employee beyond the employee's wages upon termination of the employment relationship, unless the employee was required to waive or forfeit a right or claim independently established by statute or common law, against the employer as a condition of receiving the payment, or any payment by way of compensation for loss of wages, or any other state or federal unemployment benefits, except mustering out pay, terminal leave pay or any allowance or compensation granted by the United States under an Act of Congress to an ex-serviceperson in recognition of the ex-serviceperson's former military service, or any service-connected pay or compensation earned by an ex-serviceperson paid before or after

separation or discharge from active military service, or (B) compensation for temporary disability under any workers' compensation law;

(5) Repealed by P.A. 73-140;

(6) If the administrator finds that the individual has left employment to attend a school, college or university as a regularly enrolled student, such ineligibility to continue during such attendance;

(7) Repealed by P.A. 74-70, S. 2, 4;

(8) If the administrator finds that, having received benefits in a prior benefit year, the individual has not again become employed and been paid wages since the commencement of said prior benefit year in an amount equal to the greater of three hundred dollars or five times the individual's weekly benefit rate by an employer subject to the provisions of this chapter or by an employer subject to the provisions of any other state or federal unemployment compensation law;

(9) If the administrator finds that the individual has retired and that such retirement was voluntary, until the individual has again become employed and has been paid wages in an amount required as a condition of eligibility as set forth in subdivision (3) of section 31-235; except that the individual is not ineligible on account of such retirement if the administrator finds (A) that the individual has retired because (i) such individual's work has become unsuitable considering such individual's physical condition and the degree of risk to such individual's health and safety, and (ii) such individual has requested of such individual's employer other work that is suitable, and (iii) such individual's employer did not offer such individual such work, or (B) that the individual has been involuntarily retired;

(10) Repealed by P.A. 77-426, S. 6, 19;

(11) Repealed by P.A. 77-426, S. 6, 19;

(12) Repealed by P.A. 77-426, S. 17, 19;

(13) If the administrator finds that, having been sentenced to a term of imprisonment of thirty days or longer and having commenced serving such sentence, the individual has been discharged or suspended during such period of imprisonment, until such individual has earned at least ten times such individual's benefit rate;

(14) If the administrator finds that the individual has been discharged or suspended because the individual has been disqualified under state or federal law from performing the work for which such individual was hired as a result of a drug or alcohol testing program mandated by and conducted in accordance with such law, until such individual has earned at least ten times such individual's benefit rate;

(15) If the individual is a temporary employee of a temporary help service and the individual refuses to accept suitable employment when it is offered by such service upon completion of an assignment until such individual has earned at least six times such individual's benefit rate; and

(16) For purposes of subparagraph (A)(ii) of subdivision (2) of this subsection, "illness or disability" means an illness or disability diagnosed by a health care provider that necessitates care for the ill or disabled person for a period of time longer than the employer is willing to grant leave, paid or otherwise, and "health care provider" means (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; (B) a podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (C) an advanced practice registered nurse, nurse practitioner, nurse midwife or clinical

social worker authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (D) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; (E) any medical practitioner from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; (F) a medical practitioner, in a practice enumerated in subparagraphs (A) to (E), inclusive, of this subdivision, who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; or (G) such other health care provider as the Labor Commissioner approves, performing within the scope of the authorized practice. For purposes of subparagraph (B) of subdivision (2) of this subsection, "wilful misconduct" means deliberate misconduct in wilful disregard of the employer's interest, or a single knowing violation of a reasonable and uniformly enforced rule or policy of the employer, when reasonably applied, provided such violation is not a result of the employee's incompetence and provided further, in the case of absence from work, "wilful misconduct" means an employee must be absent without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances for three separate instances within a twelve-month period. Except with respect to tardiness, for purposes of subparagraph (B) of subdivision (2) of this subsection, each instance in which an employee is absent for one day or two consecutive days without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances constitutes a "separate instance". For purposes of subdivision (15) of this subsection, "temporary help service" means any person conducting a business that consists of employing individuals directly for the purpose of furnishing part-time or temporary help to others; and "temporary employee" means an employee assigned to work for a client of a temporary help service.

(b) Any individual who has voluntarily left part-time employment under conditions which would otherwise render him ineligible for benefits pursuant to subparagraph (A) of subdivision (2) of subsection (a) of this section, who has not earned ten times his benefit rate since such separation and who is otherwise eligible for benefits shall be eligible to receive benefits only as follows: (1) If such separation from the individual's part-time employment precedes a compensable separation, under the provisions of this chapter, from his full-time employment, he shall be eligible to receive an amount equal to the benefits attributable solely to the wages paid to him for any employment during his base period other than such part-time employment; or (2) if such separation from the individual's part-time employment follows a compensable separation, under the provisions of this chapter, from his full-time employment, he shall be eligible to receive an amount equal to the lesser of the partial unemployment benefits he would have received under section 31-229 but for such separation from his part-time employment or the partial unemployment benefits for which he would be eligible under section 31-229 based on any subsequent part-time employment. In no event may the employer who provided such part-time employment for the individual be charged for any benefits paid pursuant to the subsection. For purposes of this subsection, "full-time employment" means any job normally requiring thirty-five hours or more of service each week, and "part-time employment" means any job normally requiring less than thirty-five hours of service each week.

Sec. 4. (NEW) (*Effective from passage*) (a) Any payment made pursuant to the American Recovery and Reinvestment Act of 2009, P.L. 111-5, to an individual who is an applicant for or recipient of benefits or services under any state or local program financed in whole or in part with state funds that provides such benefits or services based on need shall not be counted as income, nor shall any such payment be counted as resources for the month of receipt or the following two

months, for the purpose of determining the individual's or any other individual's eligibility for such benefits or services or the amount of such benefits or services.

(b) Any such payment shall not be counted as income for purposes of determining the eligibility for, or the benefit level of, such individual under any property tax exemption, property tax credit or rental rebate program financed in whole or in part with state funds, nor shall such payment be counted as income for purposes of any property tax relief program that a municipality may, at its option, offer.

Approved April 15, 2009

EXHIBIT C

REGULATIONS OF CONNECTICUT STATE AGENCIES
TITLE 31. LABOR
DEPARTMENT OF LABOR
ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION

Sec. 31-236-23a. Voluntary leaving to escape domestic violence

(a) For purposes of this section, the following definitions shall apply:

(1) "Abuser" means a family or household member or a current or former sexual partner who engages in the domestic violence, which includes the forms of conduct described in subsection (2) of this section;

(2) "Victim of domestic violence," as defined in section 17b-112a(1) of the Connecticut General Statutes, as amended from time to time, means a person who has been battered or subjected to extreme cruelty by (A) physical acts that resulted in or were threatened to result in physical injury, (B) sexual abuse, (C) sexual activity involving a child in the home, (D) being forced to participate in nonconsensual sexual acts or activities, (E) threats of or attempts at physical or sexual abuse, (F) mental abuse, or (G) neglect or deprivation of medical care; and

(3) "Family or household member" means an individual who falls within any of the categories, as defined in section 46b-38a(2) of the Connecticut General Statutes, as amended from time to time: (A) spouses, former spouses; (B) parents and their children; (C) persons eighteen years of age or older related by blood or marriage; (D) persons sixteen years of age or older other than those persons in subdivision (C) of this subsection presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship.

(b) The Administrator shall not disqualify an individual from receiving benefits because the individual left suitable work to protect the individual or a child domiciled with the individual from becoming or remaining a victim of domestic violence, as defined in subsection (a) of this section, provided such individual has made reasonable efforts to preserve the employment.

(c)(1) The Administrator shall consider the specific facts and circumstances of the individual, the employment, and the domestic violence involved in determining eligibility under this section. The individual shall provide the Administrator with available evidence necessary to support the individual's claim that he or she left the employment in order to protect the individual or a child domiciled with the individual from becoming or remaining a victim of domestic violence. Evidence of domestic violence may include, but is not limited to: (A) police, government agency or court records; (B) documentation from a shelter worker, legal, medical, clerical or other professional from whom the individual has sought assistance in dealing with domestic violence; or (C) a statement

from an individual with knowledge of the circumstances which provide the basis for the claim of domestic violence.

(2) An individual's allegations of domestic violence, if found credible by the Administrator or trier of fact, may be sufficient to make an affirmative determination of the fact of domestic violence.

(3) The filing of a civil or criminal complaint against the alleged abuser shall not be required as a prerequisite in order to establish the fact of domestic violence. Nor shall such complaint be required to establish reasonable efforts to preserve the employment.

(4) Upon an affirmative determination of the fact of domestic violence, the Administrator shall determine whether or not the reason the individual left employment was to protect the individual or a child domiciled with the individual from becoming or remaining a victim of domestic violence.

(d) In assessing whether the individual made reasonable efforts to preserve employment, the Administrator shall consider:

(1) Whether it was feasible under the circumstances for the individual to inform the employer of the domestic violence or threat of domestic violence; and

(2) If so, whether the employer was actually informed; and

(3) Whether the employer responded by offering the individual continuing employment which would not compromise the safety of the individual or the child domiciled with the individual.

(e) When the individual reasonably believed that preserving employment would, itself, expose the individual or child domiciled with the individual to a safety risk, the Administrator may conclude that no efforts to preserve employment would be reasonable.

(f) When the individual reasonably believed that relocation was necessary to ensure the safety of the individual or a child domiciled with the individual and such relocation interfered with the individual's ability to preserve employment, the Administrator may conclude that no efforts to preserve employment would be reasonable.

(g) A finding of nondisqualification under this section does not relieve the individual of the responsibility to comply with the eligibility requirements enumerated in section 31-235 of the Connecticut General Statutes during any week for which benefits are claimed.

(Added effective April 3, 2001.)

EXHIBIT D

REGULATIONS OF CONNECTICUT STATE AGENCIES
TITLE 31. LABOR
DEPARTMENT OF LABOR
ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION

Sec. 31-236-26a. Deliberate misconduct

In order to establish that an individual was discharged or suspended for deliberate misconduct in wilful disregard of the employer's interest, the Administrator must find all of the following:

(a) **Misconduct.** To find that any act or omission is misconduct the Administrator must find that the individual committed an act or made an omission which was contrary to the employer's interest, including any act or omission which is not consistent with the standards of behavior which an employer, in the operation of his business, should reasonably be able to expect from an employee.

(b) **Deliberate.** To determine that misconduct is deliberate, the Administrator must find that the individual committed the act or made the omission intentionally or with reckless indifference for the probable consequences of such act or omission.

(c) **Wilful Disregard of the Employer's Interest.** To find that deliberate misconduct is in wilful disregard of the employer's interest, the Administrator must find that:

(1) the individual knew or should have known that such act or omission was contrary to the employer's expectation or interest; and

(2) at the time the individual committed the act or made the omission, he understood that the act or omission was contrary to the employer's expectation or interest and he was not motivated or seriously influenced by mitigating circumstances of a compelling nature. Such circumstances may include:

(A) events or conditions which left the individual with no reasonable alternative course of action; or

(B) an emergency situation in which a reasonable individual in the same circumstances would commit the same act or make the same omission, despite knowing it was contrary to the employer's expectation or interest.

(Added effective July 28, 1997.)

EXHIBIT E

REGULATIONS OF CONNECTICUT STATE AGENCIES
TITLE 31. LABOR
DEPARTMENT OF LABOR
ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION

Sec. 31-236-26b. Knowing violation

In order to establish that an individual was discharged or suspended for a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, when reasonably applied, the Administrator must find all of the following:

(a) **Knowing Violation.** To find that an individual engaged in a single knowing violation of a rule or policy of the employer, the Administrator must find that:

(1) the individual knew of such rule or policy, or should have known of the rule or policy because it was effectively communicated to the individual. In determining whether the rule or policy was effectively communicated to the individual, the Administrator may consider the manner in which the rule or policy was communicated. Evidence of the employer's actions, including but not limited to, posting of the rule or policy within the company at a place likely to be observed by the employees; explanation of the rule at a training or orientation session; verbal explanation of the rule to the individual; distribution of a document to the individual which contained the rule or policy; warnings or other disciplinary action; and evidence of the individual's receipt of any document containing the rule or policy should be considered in determining whether the rule or policy was effectively communicated by the employer to the individual;

(2) the individual's conduct violated the particular rule or policy; and

(3) the individual was aware he was engaged in such conduct.

(A) If the rule or policy requires an intentional act, the Administrator must inquire into the individual's intent to violate such rule or policy.

(i) An example of a rule or policy that requires an intentional act is a rule prohibiting falsification or deliberate misrepresentation of an employer's business records.

(b) **Reasonable Rule or Policy.** To find that a rule or policy instituted by an employer is reasonable, the Administrator must find that the rule or policy furthers the employer's lawful business interest. The administrator may find an employer rule or policy to be reasonable on its face. For example, a rule prohibiting fighting in the workplace is reasonable on its face. When evidence is offered to demonstrate that the rule or policy is unreasonable, the Administrator may consider whether:

(1) the rule or policy was reasonable in light of the employer's lawful business interest. Examples of reasonable rules or policies that further the employer's lawful business interest may include, but are not limited to, a rule or policy prohibiting eating at the employee's work station to ensure office cleanliness; and a rule or policy requiring employees to wear a hair net or hat while preparing food for customers for health reasons; and

(2) there is a clear relationship between the rule or policy, the conduct regulated and the employer's lawful business interest.

(c) **Uniformly Enforced.** To find that a rule or policy of the employer was uniformly enforced, the Administrator must find that similarly situated employees subject to the workplace rule or policy are treated in a similar manner when a rule or policy is violated.

(d) **Reasonable Application.** To find that a rule or policy of an employer was reasonably applied, the Administrator must find:

(1) that the adverse personnel action taken by the employer is appropriate in light of the violation of the rule or policy and the employer's lawful business interest;

(A) An example of an adverse personnel action that is appropriate in light of the violation of a rule or policy prohibiting tardiness is an individual's discharge or suspension for habitual tardiness without reasonable excuse after warnings.

(B) An example of an adverse personnel action that is not appropriate in light of the violation of the rule or policy is an individual's discharge for violating a dress code policy, one time, by wearing a skirt that is one inch shorter than that allowable by the policy; and

(2) that there were no compelling circumstances which would have prevented the individual from adhering to the rule or policy. Examples of circumstances which are of a compelling nature include, but are not limited to, serious weather-related problems, rules which are contradictory or require actions that are illegal or improper, rules the adherence to which could result in injury to the health or safety of an individual or other objectively verifiable circumstances which are of a compelling nature.

(e) **Incompetence.** To find that the violation of a rule or policy of the employer is a result of the individual's incompetence and therefore is not wilful misconduct, the Administrator must find that the individual was incapable of adhering to the requirements of the rule or policy due to a lack of ability, skills or training, unless it is established that the individual wilfully performed below his employer's standard and that the standard was reasonable.

(1) Examples of a violation of a rule or policy due to incompetence include, but are not

limited to, an employee who is required to perform at a certain level of word processing proficiency, but who fails to perform at such level because he does not have the requisite skills, training or experience; and an employee who is required to meet the employer's standard requiring employees to assemble 20 widgets per hour, but who fails to meet such standard because he is physically unable to meet those requirements.

(Added effective July 28, 1997.)

EXHIBIT F

REGULATIONS OF CONNECTICUT STATE AGENCIES
TITLE 31. LABOR
DEPARTMENT OF LABOR
ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION

Sec. 31-236-26d. Absence from work

(a) **Application.** The Administrator shall apply this section to determine eligibility in all cases in which the individual was discharged or suspended due to absence from work.

(b) **Definitions.** For the purposes of this section, the following definitions shall apply:

(1) "Good cause for absence from work" means any compelling personal circumstance which would normally be recognized by the individual's employer as a proper excuse for absence, or which would prevent a reasonable person under the same conditions from reporting for work. Examples of such good cause shall include, but not be limited to: personal illness or injury which prevented the individual from reporting to work; a serious isolated transportation problem over which the individual had no control; or a sudden event which required the individual to address a compelling personal responsibility or family emergency.

(2) "Notice" means notification to the employer of absence from work through any reasonable method and within any reasonable timeframe prescribed by the employer.

(3) "Separate instance" means "separate instance" as defined in section 31- 236(a)(16) of the Connecticut General Statutes.

(c) Elements of wilful misconduct--Absence from work. In order to establish that an individual was discharged or suspended for absence from work which constituted wilful misconduct in the course of employment under section 31- 236-26 of the Regulations of Connecticut State Agencies, the Administrator shall find that all of the following elements have been met:

(1) the individual had three separate instances of absence from work;

(2) with respect to each instance of absence, the individual either-

(A) did not have good cause for absence from work, or

(B) did not provide notice of such absence to the employer which could have been reasonably provided under the circumstances; and

(3) the three separate instances of absence occurred within a twelve-month period.

(d) **Failure to give notice.** Even if the Administrator determines that the individual had good cause for absence from work, such absence shall be counted as a separate instance under this section if the individual failed to give notice of such absence when such notice could have been reasonably provided under the circumstances.

(e) **Compelling personal circumstances.** The Administrator shall not find that an individual could have reasonably provided notice if the individual's failure to provide notice was due to compelling personal circumstances which would have prevented a reasonable person in the same circumstances from providing notice.

(f) **Consecutive days--Separate Instances.** Where an absence without good cause for absence from work or without notice continued for two or more consecutive days, the Administrator shall rely upon the following table to determine the number of separate instances of absence under this section.

Consecutive Days	Instance(s) of Absence
2	1
3	2
4	2
5	3
6	3

(g) **Exclusions.**

(1) Tardiness. An occasion of tardiness is not a separate instance of absence under this section. The Administrator shall determine the eligibility of any individual who was discharged or suspended for tardiness under the provisions of section 31-236-28 of the Regulations of Connecticut State Agencies.

(2) Unauthorized leaving of work. An individual's unauthorized leaving of his work site during scheduled working hours after the individual has reported to work is not a separate instance of absence under this section. The Administrator shall determine the eligibility of any individual who was discharged or suspended for such unauthorized leaving under either section 31-236-26a or section 31-236-26b of the Regulations of Connecticut State Agencies.

(Added effective June 7, 2005.)