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Please respond to nobody@a1289.g.akamai.net

Record Type: Record

To: John Morrall@EOP

cc:

Subject: Suggestion for Regulatory Reform

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Name:

Eric Oxfeld

Address:

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Name of Guidance:

Final Rule on Birth and Adoption Unemployment Compensation

Regulating Agency:

Department of Labor

Subagency (if any)

Citation (Code of Federal Regulation):

65 Fed. Reg. 37, 210 2000

Authority (Statute/Regulation):

Description of Problem (Nature of Impact and on Whom):

May 24, 2002

Mr. John Morrall Office of Information and Regulatory Affairs Office of  
Management and Budget, NEOB, Room 10235 725 17th Street, NW Washington,  
D.C. 20503.

Dear Mr. Morrall,

We are responding to the Office of Management and Budget OMB request for  
public input and comment on federal regulations as part of the recently  
announced regulatory reform initiative. In connection with this

initiative, I respectfully urge OMB to support rescission of the Birth and Adoption Unemployment Compensation BAA-UC rule promulgated by the Department of Labor in 2000. The BAA-UC regulations authorize states to withdraw funds from their unemployment insurance UI trust accounts to compensate employed workers who take leave following the birth or adoption of a child. UWC, which was established in 1933, is the only association exclusively devoted to public policy advocacy at the national level relating to UI and workers compensation WC, on behalf of business. UWC members are employers of all sizes, industry, and location across the United States national and state associations active on UI and WC issues and service providers, all of whom share an interest in promoting sound public policy on proposals affecting the UI and WC programs.

By diverting UI trust funds for paid leave, BAA-UC is clearly contrary to Congress's intent under both the Federal Unemployment Tax Act and the Family and Medical Leave Act. Paid leave as authorized under the BAA-UC regulations is not unemployment insurance. Workers who take leave are not unemployed. Their employers have work for them, but these individuals are not available for work.

BAA-UC will hurt workers and employers by putting the safety net for unemployed workers at risk by inviting states to spend down their unemployment insurance reserves for the entirely unrelated purpose of compensating leave takers. State UI trust fund reserves are needed to assure that funds are available to pay unemployment compensation to jobless workers while they seek new work and to protect against the adverse economic consequences of payroll tax

increases needed to finance unemployment benefits.

State UI trust fund reserves are drawn down quickly when the economic cycle turns. Several states, including New York and Texas, have already needed federal loans to pay for their current UI benefits. In these and many other states, payroll tax increases will be imposed on employers to replenish UI trust funds to meet existing obligations. Moreover, using UI trust funds for paid leave puts the federal budget itself at significant risk, because the federal government is the financial guarantor for state UI benefits. The reason for a federal role in the state UI system is to protect, in a sacred trust, the funds reserved to assist workers who lose their jobs. Backstopped by the US Treasury, UI-paid leave under BAA-UC will inevitably lead to the costly transformation of the fundamental purposes of the UI system, to become a catchall mandate for employers to compensate workers during any type of work absences, including vacation, sick leave, and work injuries.

A legal challenge to BAA-UC is currently pending in federal court. During the Clinton Administration, DOL asked the court to dismiss this lawsuit because no state has enacted a UI-paid leave law. There has been no decision yet on the motion to dismiss or the underlying merits of the case. As a result, UI-paid leave proposals are now under active consideration in New Jersey and other states. It is extremely important that the BAA-UC rule be rescinded before any state actually enacts, and tries to implement, a Baby UI statute. The judicial system will need years to resolve this issue. In the interim, the continued existence of the BAA-UC regulations as final rules fosters unhealthy interest in raiding UI trust funds.

UWC encourages dialogue on positive ways to encourage financial support for parents who take leave following the birth or adoption of a child. However, the misuse of the unemployment insurance program for the unrelated purpose of paid parental leave is unwise and unworkable and will put this critical safety net for jobless workers at risk. I therefore respectfully urge OMB to recommend that the BAA-UC rule be rescinded and that DOL begin the rulemaking process to accomplish this objective as soon as possible.

Sincerely,

Eric J. Oxfeld  
President

Proposed Solution:  
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Estimate of Economic Impacts (Quantified Benefits and Costs if possible / Qualified description as needed):  
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