



September 19, 2018

Secretary Rosalin Acosta
Department of Labor and Workforce Development
One Ashburton Place, Suite 2112
Boston, MA 02108

Richard A. Jeffers, Director
Department of Unemployment Assistance
Charles F. Hurley Bldg.
19 Staniford Street
Boston, MA 02114

Subject: EMAC Supplement Hardship Waiver Draft Regulations

Dear Secretary Acosta and Director Jeffers:

The Massachusetts Nonprofit Network (MNN) appreciates the opportunity to offer testimony on the temporary Employer Medical Assistance Contribution Supplement (EMAC supplement) hardship waiver draft regulations. We thank the Administration and DUA for acting quickly in drafting the hardship waiver regulations as many in the nonprofit sector have received assessments far beyond what they had budgeted for. MNN's testimony below includes two important recommendations we hope you will consider adopting in the emergency regulations.

MNN is the voice of the nonprofit sector and a statewide organization that brings together all parts of the nonprofit ecosystem—nonprofits, funders, community and business leaders, and elected officials—to strengthen nonprofits and raise the sector's voice on critical issues. MNN has over 800 members, representing nonprofits in every region of the state. Our members come from all subsectors of the nonprofit world, including healthcare, human services, housing, education, and civic engagement.

This hardship waiver has the potential to provide some fiscal relief to our members and other nonprofit and for-profit employers in the Commonwealth. Since the EMAC Supplement assessment went into effect, MNN has heard from numerous members, all of whom are providing important services and programs in their communities, whose assessments are severely impacting their budgets. As DUA and the Executive Office of Labor and Workforce Development finalizes these draft regulations, we respectfully request the following:

1. Simplicity in the application - The EMAC Supplement hardship waiver application must be filled out in each quarter an employer is applying for a waiver. Given that employers are likely to file an application in more than one quarter, we respectfully request that the application not be overly burdensome.
2. Three prong test - Under the draft EMAC Supplement hardship waiver regulations, to demonstrate a financial hardship, an employer must show: (1) because of financial hardship, the employer is unable to pay the EMAC Supplement; (2) the employer has acted in good faith in all its relations with the Department; *and* (3) failure to obtain a hardship waiver is likely to result in termination of the employer's business or in loss of employment. Given the high bar set by this test, we would respectfully suggest you consider using an "*or*" in between the second and third prong. Proving that an employer is likely to go out of business or lay off employees could be difficult, even if an employer is experiencing severe hardship in meeting their EMAC Supplement obligation. It would also keep the EMAC Supplement hardship waiver from being overly complicated to administer.

Nonprofit organizations provide critical services and make each community with which they partner stronger. They also dedicate every dollar received to their missions, and in doing so, run lean. A recent survey of nonprofits around the country found that 52 percent of nonprofits have three months or less of cash readily available and nearly 30 percent ended the prior fiscal year with an operating deficit. This hardship waiver has the potential to ensure that many nonprofits don't continue to face hard choices including redirecting funds from important programs and potentially serving less people who rely on their services.

Thank you for the opportunity to provide input on the EMAC Supplement hardship waiver draft regulations. In addition, as you continue to consider how best to finalize these regulations, please use MNN as a resource. Please reach out anytime with questions or as issues arise to our director of government affairs, Tonja Mettlach, at tmettlach@massnonprofitnet.org.

As always, we appreciate your continued support of the nonprofit sector.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Klocke". The signature is fluid and cursive, with the first name "Jim" being more prominent than the last name "Klocke".

Jim Klocke
Chief Executive Officer
Massachusetts Nonprofit Network