Congress of the United States
Washington, DC 20515

May 26, 2020

The Honorable Eugene Scalia
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretary Scalia:

We are writing to share our concerns about the recently issued guidance to the states from the U.S. Department of Labor (USDOL) regarding the implementation of unemployment relief to "reimbursing employers" through the *Coronavirus Aid, Relief, and Economic Security (CARES) Act.* Under the guidance, states are required to bill these entities for 100 percent of the costs of unemployment benefits paid to employees who have been laid off because of the COVID-19 crisis. Left unchanged, this guidance would financially cripple Maine's nonprofit community and risk disrupting the services they provide to Mainers in this challenging time.

Under Maine law, 501(c)(3) nonprofits are given the option to forgo contributions to the unemployment compensation fund, and instead may reimburse the fund for benefits paid to their separated employees. Nonprofit employers often elect the reimbursement option because they rarely experience large layoffs. However, nonprofits have experienced significant layoffs of their workforce as a result of the COVID-19 pandemic and are charged for unemployment benefits filed by previous employees who worked for the organization during a "base period" that goes back several quarters. Consequently, for those who self-fund their unemployment benefit, the total estimated cost of directly reimbursing these claims could reach into the hundreds of thousands of dollars. Recognizing the unprecedented financial challenges facing nonprofits, the *CARES Act* requires the federal government to cover 50 percent of the cost of claims charged to reimbursing employers. Additionally, Section 2103 of the legislation directs the USDOL to allow the states to provide "maximum flexibility" to reimbursing employers as it relates to the timely payment and assessment of penalties and interest.

USDOL guidance, however, does not provide needed flexibility to the states and would prohibit the Maine Department of Labor (MDOL) from requiring reimbursing employers to cover 50 percent of the cost of claims up front and drawing down the remaining 50 percent from USDOL directly. Instead, reimbursing employers - including hundreds of Maine nonprofits - would have to come up with 100 percent of the cost up front and then seek a 50 percent reimbursement from an already overburdened MDOL. Having to provide such a significant investment up front is untenable and could result in the elimination of vital services.

It is our hope that the Department will update the guidance to allow state departments of labor to provide the 50 reimbursement up front, consistent with Congress' directive that USDOL provide maximum flexibility pursuant to the *CARES Act.* Doing so would help ensure that Maine's nonprofits can continue to serve communities at a time when they are needed most.

We appreciate your attention to this important matter and await your response.

Sincerely,

JARED GOLDEN
Member of Congress

CHELLIE PINGREE
Member of Congress

ANGUS S. KING, JR.
United States Senator

SUSAN M. COLLINS
United States Senator