



STATE OF NEW YORK
DEPARTMENT OF LABOR

GOVERNOR W. AVERELL HARRIMAN
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12240

Counsel's Office
(518) 457-4380

April 22, 1991

Hon. William R. Sears
Senate Co-Chairman
Administrative Regulations
Review Commission
The Capitol
Albany, NY 12247

Hon. Eric N. Vitaliano
Assembly Co-Chairman
Administrative Regulations
Review Commission
The Capitol
Albany, NY 12247

Dear Senator Sears and Assemblyman Vitaliano:

Your March 14, 1991 letter to Commissioner Hartnett has been referred to me for reply. In your letter you state that formal rule making is necessary with respect to our Labor Standards Bureau's "policy" of not accepting wage supplement cases where the claimant's earnings exceeds \$45,000 per annum.

It is our position that the broad discretionary power granted to the Commissioner of Labor in section 196.2 of the Labor Law provides specific authority for the Bureau's position. The articulation of its position constitutes a matter of internal organization and management which is exempt from the filing requirement under §102.2 of the State Administrative Procedure Act.

Very truly yours,

Barbara C. Deinhardt
Deputy Commissioner of Labor
for Legal Affairs

TMD:1

bc: R. Polsinello ✓

Mr. Mrozak
Chief Investigator
Mr. Burgerian

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