

Unemployment Update – States Need Complete Separation Details

Current Law & Employer Consequences

All state unemployment laws include provisions for imposing penalties for employers omitting facts relating to the UI benefit eligibility of a claimant. It's true the states have not always enforced these provisions, as only a handful of states currently impose consequences for failure to provide complete, timely and accurate separation information. However, past practice is not an indicator of future applications of law by the states. Due to the dramatically reduced balances in most state unemployment trust funds, there is now a renewed focus on reducing the level of erroneous benefit payments made to claimants, as well as general UI administrative costs.

Both the U.S. Department of Labor and the state UI agencies view employers as contributing significantly to increased benefit overpayments and the corresponding reduced reserves in state trust funds. Some states already charge employers for either not responding to claim forms at all or for waiting until participating in an unemployment hearing to provide complete separation details. In an effort to reduce overpayments and fraud, more states might follow this practice if employers continue to downplay their obligation to provide complete separation information.

Unnecessary Costs for Both Employers & States

A lack of separation details often results in a "wrong" initial claim determination followed by the unnecessary payment of UI benefits. Even if the decision is "made right" for the employer through the hearing process and credits are issued to their state unemployment tax accounts, overpaid UI benefits are often not recovered by the states. Such overpayments further deplete state UI trust funds and can result in increased tax rates for all employers.

In some states, if you fail to supply complete and timely information at the initial claim level, you forfeit the right to appeal the initial determination and plead your case at a hearing. This may result in the assessment of benefit charges that could have otherwise been avoided. In addition, even if you do subsequently attend and win an unemployment hearing, there are an increasing number of states that will not credit your experience-rating account for the benefits paid prior to your winning the hearing.

Saving Time & Money

Providing all of the facts "up-front" when submitting your initial claim response to the state provides you with your best opportunity to obtain a disqualification and avoid the need to attend an unemployment hearing. Enabling state agencies to issue accurate and appropriate determinations the first time around helps keep employer costs down and assists the states in running effective and cost efficient programs. Conducting unnecessary hearings increase costs for state agencies, and attending unemployment hearings is expensive and time consuming for employers in terms of lost productivity for staff members who must prepare and participate.

It's Your Reputation

States are becoming more adept at identifying employers that habitually fail to provide complete and timely separation details. If past history reflects it is your policy to respond in a manner not compliant with state requirements, adjudicators are less likely to give you the benefit of the doubt when ruling on "gray area" cases.

TALX's experience, expertise, and proven results help employers navigate the uncertainty of the unemployment insurance system. For additional information regarding this article or other proactive unemployment cost management techniques, please contact Pete Krieshok at 314-214-7325, or by e-mail at pkrieshok@talx.com or visit our corporate blog at <http://blog.talx.com>.