

June 6, 2011

MEMORANDUM NO: 045-11HR

TO: Agency Administrators
FROM: Bobbie Chappell, Director of Human Resources
VIA: Rip Colvin, Executive Director
RE: JAC Unemployment Compensation Workshop - WebEx

The Justice Administrative Commission (JAC) will be hosting a WebEx workshop on June 9, 2011 from 10:00 a.m. to 12:00 p.m. to discuss important unemployment compensation topics. The objective of this workshop is to provide an overview of the Unemployment Compensation process, billings, and 2011 legislation. At the conclusion of the presentation, we will have a question and answer session.

Attached you will find the PowerPoint Presentation and an email with the WebEx information to join the workshop.

Objectives

- Unemployment Compensation Process
- Receiving and Responding to a Claim for Unemployment Compensation
- Based Period
- Determination and Appeals Process
- Quarterly Unemployment Compensation Invoices
- Extended Benefits
- 2011 Legislation
- Frequently Asked Questions

JAC is pleased to make this workshop available, and hope you are able to participate.

If you have any questions about the presentation before the workshop, please contact Andy Snuggs at (850) 488-2415 or at SnuggsA@justiceadmin.org.

WebEx Information

Topic: Unemployment Comp
Date: Thursday, June 9, 2011
Time: 10:00 am, Eastern Daylight Time (New York, GMT-04:00)
Meeting Number: 597 389 956
Meeting Password: 060911

To join the online meeting

1. Go to

<https://suncom.webex.com/suncom/j.php?ED=161953787&UID=1252202742&PW=NZmZmOTImOGM1&RT=MiMxMQ%3D%3D>

2. If requested, enter your name and email address.

3. If a password is required, enter the meeting password: 060911

4. Click "Join".

To join the teleconference only

Call-in toll-free number: 1-888-808-6959

Conference Code: 293 961 4

If you need assistance contact: waynem@justiceadmin.org or 1-850-488-2415



JUSTICE ADMINISTRATIVE COMMISSION

Unemployment Compensation Training

Andy Snuggs, Senior Human Resources Coordinator
Bobbie Chappell, Director of Human Resources

Workshop Objectives

The objective of this workshop is to provide an overview of the Unemployment Compensation Process, Billings, and 2011 Legislation

- Unemployment Compensation Process
- Receiving and Responding to a Claim for Unemployment Compensation
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UCB-412 Claim Forms

- Responses are due within 20 calendar days from the date the form is mailed.
 - The date is located on the form.
 - You may respond by fax or through the internet.
 - <https://www2.myflorida.com/AENR/>
- UCB-412 Claim Form
 - Effective Date of Claim
 - % Chargeable
 - Available Credits
 - Weekly Benefit Amount



Base Period

- Defined as the first 4 calendar quarters of the last 5 quarters from the date of the claim
 - Example: *If the date of a claim is 05/01/11, then the base period would be January 1, 2010 to December 31, 2010.*
- Unemployment Compensation (UC) will look for all employers that fall within the claimant's base period.
 - If claimant has multiple employers UC will base their decision of eligibility on the last employer



Weekly Benefit Amount

- To calculate the weekly benefit amount, use the quarter in the base period with the highest earnings and divide the earnings by 26. This number is the claimant's weekly benefit amount.
- The minimum weekly benefit amount is \$32 and the maximum weekly benefit amount is \$275.
- To calculate the maximum available credits, divide claimant's total base period wages as shown on their *Wage Transcript and Determination* by 4. This number is the amount available to receive, providing the claimant meets all other eligibility requirements.
- The total amount of available credits can range from a minimum of \$850 to a maximum of \$7150.



Misconduct (Old Legislation)

- If the determination is not considered “misconduct” and the employer is considered the moving party, then the claimant will be eligible for UC benefits.
- Misconduct includes, but is not limited to the following—which may not be construed in pari-materia with each other:
 - Conduct demonstrating willful or wanton disregard (high standard) of an employer's interests and found to be a deliberate violation or disregard of the standards of behavior which the employer has a right to expect of his or her employee; or
 - Carelessness or negligence to a degree or recurrence that manifests culpability, wrongful intent, or evil design or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer.



Misconduct (New Legislation)

- New legislation expands the definition of misconduct to include:
 - Conduct demonstrating conscious disregard (a lower standard) of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee;
 - Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent, or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer;
 - Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence;
 - A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state;
 - A violation of an employer's rule, unless the claimant can demonstrate that:
 - He or she did not know, and could not reasonably know, of the rule's requirements;
 - The rule is not lawful or not reasonably related to the job environment and performance; or
 - The rule is not fairly or consistently enforced.



Notice of Determination

- After an individual files their initial claim, and the adjudicator has received all of the documentation necessary to make an informed decision, they will send out a [Notice of Determination](#) to the last employer.
- The first section of the form addresses the determination by the adjudicator as to why the claimant separated from the employer.
- The second section states if the claimant is eligible to receive benefits. If it is determined that they should not receive benefits, then any payment(s) they have received will need to be reimbursed to AWI.
- The third section informs both parties of the procedures to appeal the decision. Each party has 20 calendar days from the mailing date of the form to inform AWI if they are appealing the decision.



Telephone Appeal Hearings

- How does the agency appeal the decision of the adjudicator?
 - The agency has 20 calendar days from the mailing date of the form to inform AWI if they are appealing the decision. As stated earlier, this can be done online, via mail, or fax. As long as the notice to appeal is received before the deadline, a telephone appeal hearing will take place later to be determined by AWI. ***(Note: If the reason for the separation was not misconduct and the employer was the moving party, then the individual will be eligible for benefits.)***



Telephone Appeal Hearings (Cont.)

- Who hears the appeal?
 - A referee from the Office of Appeals with AWI;
- Who should be involved in the Telephone Hearing?
 - A representative from the agency; We also recommend that the immediate supervisor be present, even if the reason for separation was voluntary. The referee will not allow hearsay evidence to be introduced. They want to hear from the person with firsthand knowledge of the separation. If, for some reason, the immediate supervisor is not available for the hearing then the second level supervisor needs to be available.



Telephone Appeal Hearings(Cont.)

- How do we recommend an agency prepare for a hearing?
 - Prepare a one-page summary of the events that led to the separation. Include in the summary dates of employment, position title, if fulltime or part-time, the hourly rate of pay, and chronological order of events.
 - Meet with all witnesses before the hearing to review the proceedings, review the summary of events, go over questions that could be asked, and make sure everyone is on the same page.
 - The questions and answers should only pertain to the reason given on the notice of appeal as to why the hearing has been called.
 - Keep answers short and to the point. The referee has multiple hearings a day and they expect the hearings to last 30 minutes or less.
 - Be ready to receive the hearing officer's telephone call. The Representative of the employer should have all witnesses arrive 15 minutes before the start time of the hearing. If you do not receive a call within ten minutes after the scheduled hearing time, contact the deputy clerk whose telephone number appears on the Notice of Telephone Hearing.



Telephone Appeal Hearings(Cont.)

- What type of documentation should be used and how does the agency make sure it can be used during the hearing?
 - If an individual is discharged for misconduct then you want to make sure the dismissal letter and all documents (i.e. reprimands, suspensions) that led to the dismissal are in the UC file and can be presented as an exhibit. To ensure that this occurs, inform the deputy clerk on the notice of appeal that you intend to use the documents as exhibits and that you will mail a copy of the documents by certified mail to the claimant before the date of the hearing.
 - Other documentation you will want to be considered is the employee's resignation letter to show they voluntarily resigned.



Unemployment Appeals Commission (UAC)

- How does an agency appeal the decision of the referee?
 - The agency will have 20 calendar days from the mailing date of the decision from the referee to appeal a decision to the Unemployment Appeals Commission (UAC).
- Who is the UAC?
 - The UAC is a three-member panel appointed by the Governor who serves as the highest administrative appellate authority for UC claims.



Unemployment Appeals Commission (UAC) (cont.)

- Does the UAC hold a telephone hearing?
 - No, they review the records that are on file and the recording of the telephone hearing and make a determination.
- What types of determinations can the UAC make?
 - Affirm the decision of the referee
 - Reverse the decision of the referee
 - Modify the decision of the referee
 - Return the case to the Office of Appeals for further action if a significant error occurred and give specific instructions as to what the new telephone hearing should cover



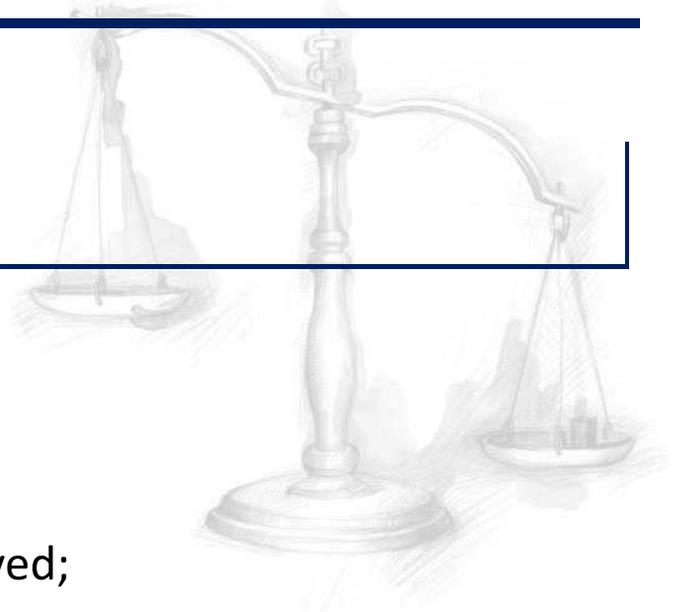
Quarterly Reimbursement Invoice

- What is the Quarterly Reimbursement Invoice from UC?
- Who is on the Invoice?
- Whom does the agency contact if they have questions about the Invoice?
- How to read the [Invoice](#)?
- Do the circuits have to pay the total amount of the Invoice?
- How is it determined how much an agency pays for a claim (the percentage of the benefit amount)?



Extended Benefits

- What is Extended Benefits (EB)?
- Who is eligible?
- You may be eligible for EB if:
 - Claimant is totally or partially unemployed;
 - Exhaust all entitlement to regular and emergency unemployment compensation (EUC) benefits prior to the effective date of the bill and your benefit ends after the effective date;
 - Satisfy all requirements of the Florida UC Law that apply to regular UC and EB, such as being able and available for work, and have not been disqualified from receiving benefits based on your reason for separation; and
 - Actively seek work for each EB week claimed and provide the work search record as instructed. You do not refuse an offer of suitable work or fail to apply for suitable work.



Legislation from 2011 Session

- SB 728 and HB 7005
 - Effective January 1, 2012, reduces the amount of weeks a claimant can receive benefits in a claim year from 26 to 23 weeks;
 - The bill also creates a sliding scale that cuts and adds weeks of benefits based on the unemployment rate. Unemployment compensation would drop to as low as 12 weeks if the average unemployment rate drops to 5 percent or lower. A week would be added for every 0.5 percent the jobless rate climbs;
 - It also expands disqualification to include being fired for all crimes committed in connection with work (rather than only those punishable by imprisonment) and being fired for violating a criminal law which affects an employee's ability to do his or her job;
 - Effective August 1, 2011, a claimant is disqualified from benefits for any week in which the individual receives severance pay from an employer;
 - The bill adds a specific disqualification for individuals who are incarcerated or imprisoned; and
 - As it relates to appeal hearings, codifies certain agency rules related to the exclusion of evidence that is irrelevant or repetitious, and revises the admissibility of hearsay evidence to allow it to be used to establish a fact under certain circumstances.



Frequently Asked Questions

- Who is eligible to receive UC benefits?
- When do claimants begin to receive a benefit?
- Are OPS employees eligible for UC benefits and if so, why?
- How is it possible that a current employee is able to receive UC benefits?
- When an employee retires from the state and receives a retirement benefit, can they also receive UC benefits?
- What happens when an employer wins an appeal and the claimant was already receiving a benefit from UC? Is the agency immediately reimbursed?
- Why is the agency being charged UC benefits if they are not the last employer and they separated from them voluntarily?



Contacts at JAC

- Main Contact
 - Andy Snuggs, Senior Human Resources Coordinator
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 - SnuggsA@justiceadmin.org
- Alternate Contact
 - Amber Moore, Human Resources Coordinator
 - (850) 488-2415 ext. 252
 - MooreA@justiceadmin.org





Questions