



# How to Manage Unemployment Claims

Cut costs and reduce liability with these steps.

By Fan Zhang & Brian H. Kleiner

According to recent U.S. Department of Labor statistics, 8.6% of all unemployment benefits paid are inaccurate (www.adp.com). Thousands of nonprofit organizations pay claims in error or without justification, wasting millions of dollars. Don't let it happen to your organization!

To avoid paying unwarranted claims, you need to develop an effective process.

Deal with complex unemployment law by following these simple rules:

**Recognize that unemployment compensation isn't a tax but a form of insurance.** The unemployment-insurance program is funded by taxes paid by employers (www.wa.gov). Therefore, efficient management of unemployment claims can control costs, minimize liability, prevent unwarranted claims, and establish accountability while ensuring compliance with regulations.

**Review each claim in terms of eligibility requirements.** To avoid paying unwarranted claims, you need to develop an effective process. Be ready to review former employees' claims quickly to make sure they're eligible for benefits. Retrieve and verify their wage data

from your human-resource or payroll database.

To be eligible, employees must meet state requirements for wages earned or time worked during a one-year period before the claim. They must have a certain amount of wages in this base period, or they won't have a claim. They must have become unemployed through no fault of their own. They must be able to work, available to work, and actively seeking work.

Everyone the person worked for during this 12-month period is potentially chargeable for a portion of the benefits. But if you can prove that the person is ineligible or that their termination was due to their own actions, you won't be charged for their benefits.

**Decide whether the termination was a discharge or voluntary quit.** If the employee was ready, able, and willing to continue to work for you, but you acted to end the relationship, the termination is a discharge. If the employee acted to end the relationship, it is a voluntary quit. The distinction is crucial, because the party that initiated the separation is responsible for proving the case.

Two elements must be present for employees to be discharged for misconduct.

If the termination was a discharge, decide whether it qualifies for unemployment benefits. Section 1256 of the unemployment-in-

surance code states that employees are disqualified for unemployment compensation if discharged for misconduct connected with their most recent work. Two elements must be present for employees to be discharged for misconduct:

- Employees must substantially breach their duty to the employer under the employment contract.
- That breach must be a willful or wanton disregard of the employer's interest, which would tend to injure the employer financially.

If you disagree with a claim, you must move quickly to challenge it.

Examples of discharges for misconduct include:

- being absent for noncompelling reasons after being warned.
- failing to report an intended absence.
- falsifying work applications of other employment records and reports.
- showing disloyalty.
- undermining trust in the organization.
- damaging equipment or other property in ways that could have been avoided.
- violating known rules of the organization.
- stealing from the organization or failing to report known theft.
- mishandling money.

If the termination was a voluntary quit, check to see if the employee is qualified for unemployment compensation. To qualify,

If you decide to appeal,  
you must do so within  
20 days.

employees must prove that they would suffer some injury if they continued working. For example, they would become ill, suffer financial losses or marital discord, or have their civil rights violated. Even if they would suffer such injury, they may not be qualified for unemployment benefits if:

- They failed to seek a remedy to their problem, if one was available, before they quit.
- They failed to tell the employer about their problem and give the employer a chance to correct it.
- They failed to seek or accept a leave of absence.

Examples of quits without good cause include:

- looking for other work.
- becoming self-employed.
- failing to return from work after a leave of absence without requesting an extension.
- failing to request or accept a transfer to other suitable work.

**Protest questionable claims.** If you disagree with a claim, you must move quickly to challenge it. You need to protest in writing, clearly and concisely, with enough detail to make your point. Use such evidence as notes from termination interviews, written warnings, employee evaluations, and relevant pages from your organization's rulebook.

**Be prepared to appeal.** When you receive the Notice of Determination, review the file to be sure the Employment Development Department has all the correct information and that there's a chance to win an appeal. If you decide to appeal, you must do so within 20 days from the mailing date of the Notice. In your appeal, include the facts you want the Employment Development Department to consider.

You need to protest  
in writing, clearly and  
concisely, with enough  
detail to make your point.

When you receive the Notice of Hearing, you should do the following:

- Note the location, date, and time of the hearing and the issues that will be heard.
- Notify people you want to appear as witnesses, and obtain declarations or affidavits from witnesses unable to attend.
- Review the claimant's personnel file for evidence.
- Research the law, and be ready to ask and answer questions.

On the day of the hearing, be ready to do the following:

- Make sure that your witnesses are at the hearing.
- Have the employee's personnel file and other documentation on hand.
- In the case of a discharge, be prepared to describe the very last incident that caused the discharge. Explain how the employee knew of the rule that was violated. Discuss prior infractions that led up to the

### Selected References

Doyle, Tanya & Brian Kleiner, "The Most Likely Lawsuits—and How to Protect Yourself," *Nonprofit World*, Vol. 19, No. 1.

Taratanavat, Ratapol & Brian Kleiner, "When It's Time to Say Good-bye: How to Discharge Workers without Legal Hassles," *Nonprofit World*, Vol. 23, No. 2.

Van Vlaenderen, Heidi & Brian Kleiner, "Your Duty to Investigate Workplace Complaints," *Nonprofit World*, Vol. 19, No. 3.

These articles are available free at [www.snpo.org/members](http://www.snpo.org/members).

final incident.

- In the case of a quit, be prepared to dispute the employee's allegations of abuse or poor working conditions. Describe remedies the organization had available to make the quit unnecessary.

- When your former employee asks you questions, keep responses brief and to the point. Don't argue with the former employee; just answer the questions.

**Take the initiative.** It's your responsibility to monitor unemployment-insurance payments and protest erroneous charges. Being alert and having a program to deal with claims will save you a great deal of money in the long run. ■

---

*Fan Zhang is assistant to the president of Sunshine Group of P. R. China. Brian Kleiner is professor of human resource management at California State University, Fullerton. You may contact the authors at 551 Santa Barbara Avenue, Fullerton, California 92834.*

---

It's your responsibility to  
monitor unemployment-  
insurance payments  
and protest erroneous  
charges.