



**WORKFORCE
SERVICES
UNEMPLOYMENT
INSURANCE**

How to Reduce Employer Liability for
Unemployment Insurance Claims

Topics:

- Rules Governing Unemployment Insurance
- What Employers Need to Know: Discharge vs. Quit
- Hearings and Appeals
- Controlling Costs

Understanding the Rules

- Utah Employment Security Act-Utah Code Sections 35A-4-401 through 35A-4-508
- State Administrative Rules-Utah Admin Code R994-102 through R994-508
- Unemployment Law and Rules can be found at jobs.utah.gov/appeals

Reimbursable Employers

- Reimbursable employers are not eligible for a relief of charges. However, wages may be excluded from the claim in certain circumstances
- Reimbursable employers do not pay a quarterly contribution to the Trust Fund on taxable wages
- A reimbursable employer's liability is limited to the amount of benefits paid to the claimant

Educational Employers

Wages from an educational employer may be excluded if all these conditions are met:

- The claimant is an employee of the educational employer.
- School is not in session, or the claimant is on paid sabbatical.
- The claimant has reasonable assurance of returning to work (in the same or similar capacity) at the next regular year or term.

Part Time Concurrent

- Wages in the base period
- Part time work with no reduction in hours
- Not working on call
- Earned wages within 7 days of filing a claim

Discharge vs Quit

Claimants are denied benefits when:

“Just cause” is shown for discharges, or

“Good cause” is not shown when a claimant quits

Just Cause-Culpability

The seriousness of the conduct or severity of the offense as it affects the continuance of employment.

Questions to ask yourself:

- Impact
- Likelihood of Recurrence
- Isolated Poor Judgment

Utah Appellate Courts & Culpability: Gibson v Dept. of Employment Sec., 840 P.2d 780 (Utah App. 1992).

Isolated Instance of Poor Judgment: Bhatia v. Dept. of Employment Sec., 834 P.2d 574 (Utah App. 1992).

Just Cause-Knowledge

- Company/Employee Manuals
- Company Policy
- Operational Manuals
- Worker Instructions
- Standard Operating Procedures
- The Opposite of Knowledge
 - Condoning rule violations
 - Assuming the employee knows
 - Unclear instructions or expectations

Just Cause-Control

The Utah Supreme Court called for a liberal construction of the Utah Employment Security Act:

“Mere inefficiency or failure of good performance as the result of inability or incapacity, inadvertence, isolated instance of ordinary negligence, or good faith errors in judgment do not constitute culpable conduct which precludes a discharged employee from receiving unemployment compensation benefits.”

Discharge for Crime

- Was in connection with work
- Involved dishonesty constituting a crime or a felony or class A misdemeanor
- Was admitted or established by a conviction in a court of law

Discharge for Crime

Penalties:

- Disqualification for 52 weeks beginning the Sunday preceding the discharge date.
- Deletion of wage credits-all base period and lag quarter wages will be unavailable for current or future claims.
 - Lag quarter: wages paid after the base period but before the effective date of the claim

Quit or Discharge?

Unemployment Insurance Benefits will be Denied if the Person Voluntarily Quits Without “Good Cause”

Employee gives two-week notice:

- Employer accepts and asks employee to leave that day
- Employer accepts and pays for two more weeks, but asks employee to leave that day

Provide ALL Requested information
within time limits to avoid:

- Overpayments
- Denial of appeal rights
- Appeal hearings

Utah Code Sec. 35A-4-403

(1)(e)(ii) If an employer fails to furnish reports concerning separation and employment as required by this chapter and rules adopted under this chapter, the division shall, on the basis of information it obtains, determine the eligibility and insured status of an individual affected by that failure and the employer is not considered to be an interested party to any such determination

File Your Appeal Timely

- Within 15 days of the decision
- Good cause for late filing
- Continuing Jurisdiction

Hearings and Appeals

What is a Hearing?

- Fact finding meeting
- Determines if decisions were made correctly
- Determines benefit cost liability

Preparing for a Hearing:

- Be available for the call / uninterrupted time
- Have all necessary evidence readily available
- Take notes if you choose to cross examine

Hearings and Appeals

- Review records
- Arrange for witnesses
- Note date and time of the hearing
- Review special instructions
- Requirements will be sent
- Rescheduling required PRIOR to the hearing

Hearings and Appeals

The Notice of Hearing will list all the sections of the Utah Employment Security Act which may be considered at the hearing.

Rules are published explaining the elements of the law which must be established by evidence at the hearing.

See jobs.utah.gov/appeals for a link to the rules

Hearings and Appeals

Work with the ALJ (Administrative Law Judge)

- Provide rules used on your employment decisions to the ALJ
- Ask the ALJ for help
- Asking for reconsideration

Appeals Process

- Initial Department decision
- Appeal before an Administrative Law Judge
- Workforce Appeals Board
- Utah Court of Appeals
- Utah Supreme Court
- U.S. Supreme Court

Controlling Costs

- Screen job applicants and check references
- Provide clear job & performance expectations
- Monitor new employees carefully

Controlling Costs

- Dismiss unsuitable employees on “probation”
- Keep accurate records of all rules violations
- Document, document, document

Controlling Costs

- Do not condone violations of rules
- Be consistent with disciplinary actions
- Offer jobs to laid off employees

Controlling Costs

- Conduct exit interviews
- Be specific in providing separation explanations to the Department
- Report job refusals to the Dept. of Workforce Services (801.526.4400 option 4)

Controlling Costs

What is Unemployment Insurance doing to help you control costs?

- RESEA services
- Fraud investigations
- Work search enforcement/Eligibility Reviews
- Operational Excellence

Questions or Comments

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jobs.utah.gov/employer

(click "Manage Unemployment Account", then "Info Links" in the bottom right corner)