

Tips for Unemployment Preparedness

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Housekeeping Items

- Not an attorney, etc.
- The information provided in this presentation is general, not state-specific.
- If you have specific questions, contact your **G&A Partners account team** or your employment counsel or tax professional.
- High-level overview of the UI Process.
 - PEO and Client UI Partnership.

Unemployment Basics

- Common terminology:
 - **State agency** – Specific to the state where the claim is filed.
 - Texas Workforce Commission, Florida Dept. of Economic Opportunity, Georgia Dept. of Labor
 - **Claimant** – A person making/filing a claim.
 - **Adjudicator** – Representative from the state agency determining if benefits will be awarded.
 - **State calls** – Inquiry from the adjudicator asking specific separation details after the initial claim has been submitted.

Unemployment Basics

- Who is unemployment for?
 - According to the USDOL:
 - UI Program provides unemployment benefits to eligible works who are unemployed through no fault to their own (as determined under state law) and meet other eligibility requirements of state law.

<https://www.dol.gov/general/topic/unemployment-insurance>

Unemployment Basics

- Governing bodies:
 - United States Department of Labor:
 - Establishes who is eligible for UI, general claim practices, and continued eligibility.
 - Changes or updates in labor practices.
 - State agencies:
 - Apply the USDOL qualifications for awarding UI benefits.
 - Establish state-specific eligibility qualifications for UI.

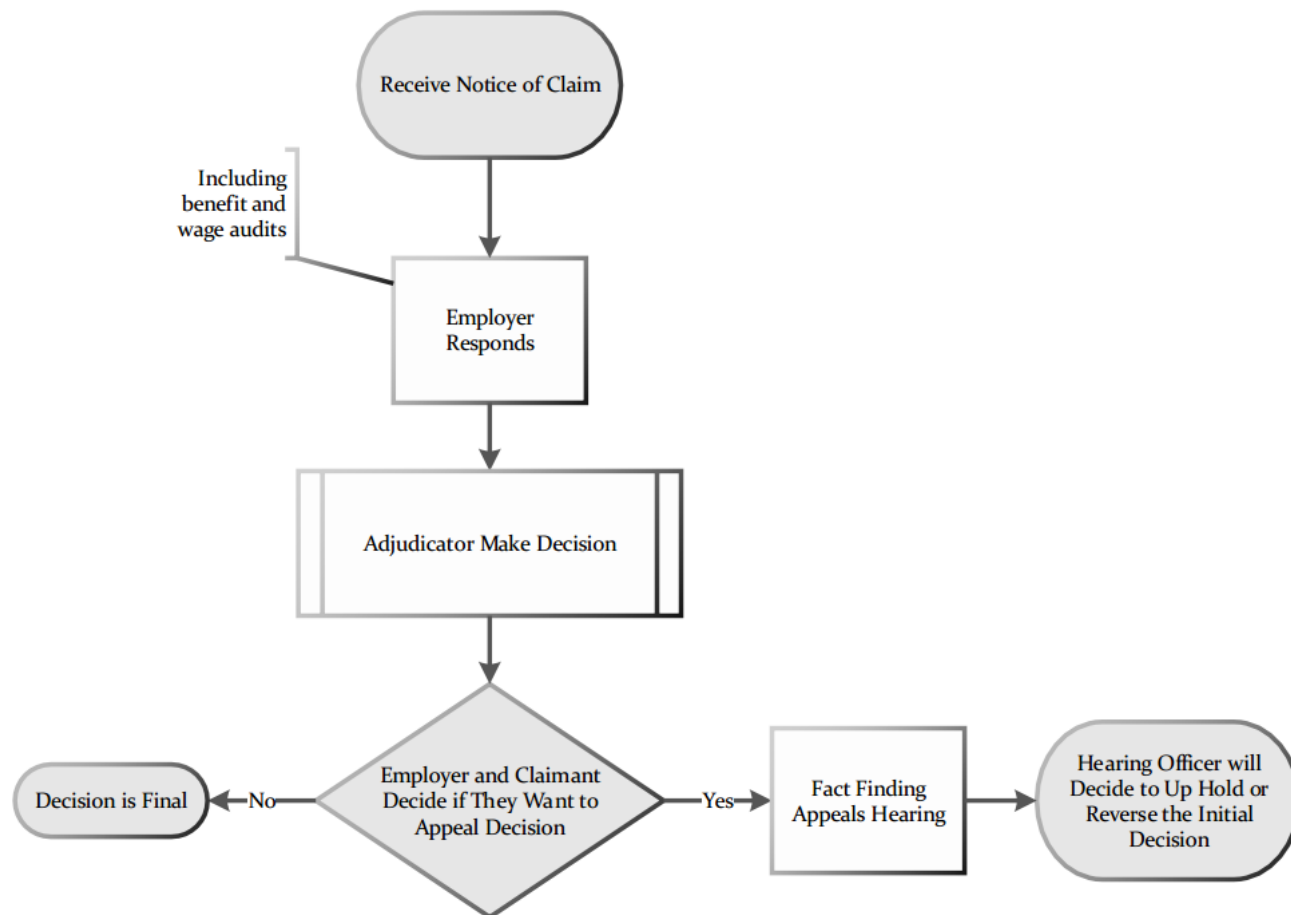
Unemployment Basics

- Who can file a unemployment claim?
 - Anyone
 - Eligibility is based on:
 - Monetary eligibility – prior wages in the base period.
 - Work separation reason – discharge or layoff.
 - Able and available – claimants must be able and available to accept a new position.
- Why do people file unemployment claims?
 - Fired, laid off, quit

<http://www.firstnonprofitcompanies.com/clarifying-claimant-unemployment-monetary-eligibility>

Unemployment Basics

- How are unemployment claims filed?



Unemployment Basics

- What influences the UI process?



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Integrity Act and Timely Response

- Integrity Act of 2011 and Timely Response
 - Obligates employers to respond in a timely manner to UI claims.
 - Clearly stipulates penalties for claimants who file fraudulent UI claims.
 - Fraudulent meaning: filing claim based on false information, not complying with requirements to actively seek work and failing to accurately report income.
<http://www.finweb.com/insurance/what-is-unemployment-fraud.html#axzz4J2wVkum8>
 - Expected response time starts from the date the letter is drafted not from the date received.

Integrity Act and Timely Response

- State calls and rebuttal statements
 - Additional information requested by the investigator to help make eligibility decisions.
 - State agencies usually require a 48 hour response time.
- The hearing officer may ask about timeliness and adequate response issues.

<http://www.proskauer.com/publications/client-alert/unemployment-laws-have-new-teeth-under-the-integrity-act-are-you-ready>

Unemployment Deadlines



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Unemployment Deadlines

- The UI program is driven by deadlines.
- The state agencies diligently uphold the deadlines they set.
 - Employer and claimants
- Utilizing available resources to respond in a timely manner is best.
 - Managers, HR representative
 - Available documentation on the separation

Cost of Unemployment



Cost of Unemployment



Cost of Unemployment

- FUTA (Federal Unemployed Tax)
 - Authorizes the IRS to collect a federal employer's tax used to fund state workforce agencies.
- SUTA (State Unemployment Tax)
 - The state law that determines individual state unemployment insurance tax rates.
 - Paid to state workforce agencies and used solely for the payment of UI benefits.
 - Amount varies by state.

Cost of Unemployment

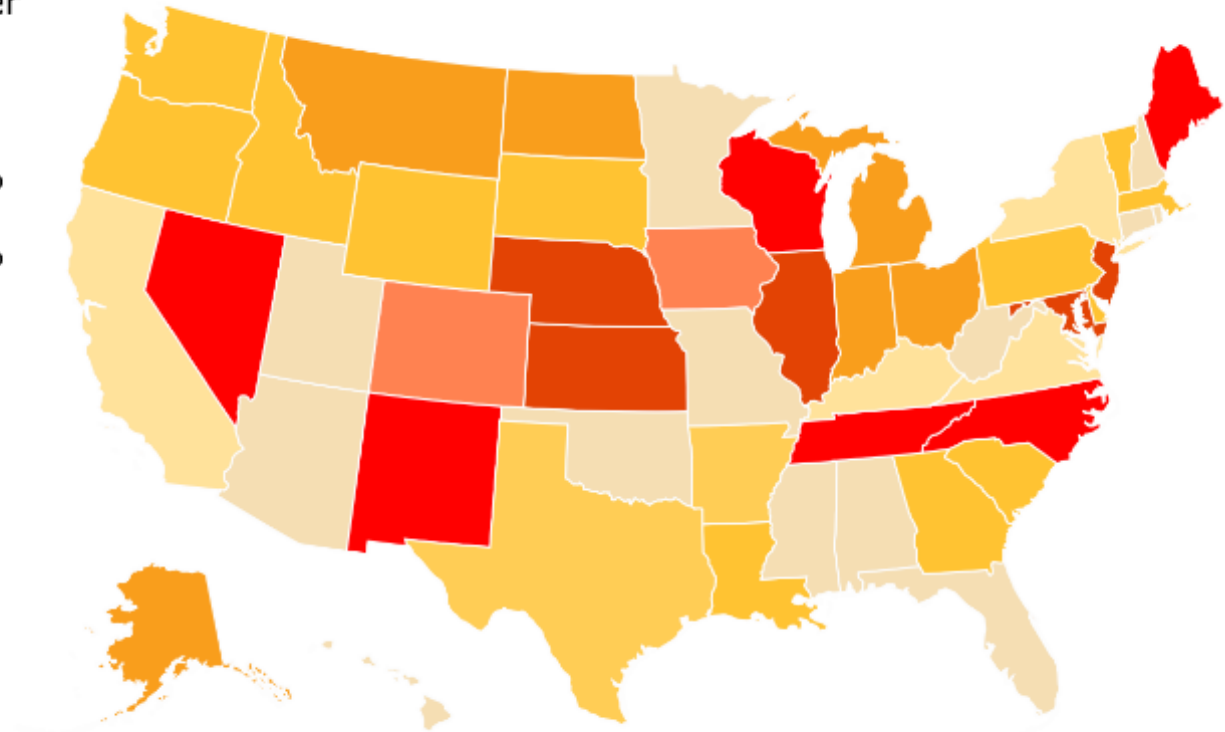
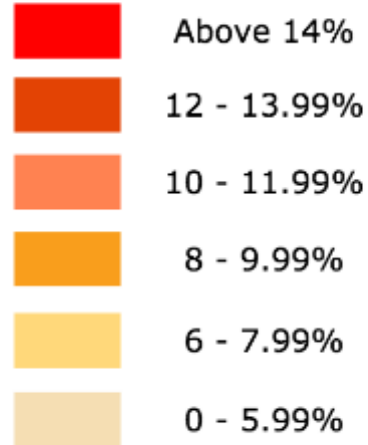
- Improper unemployment payments
 - Claiming benefits after they have returned to work.
 - Failure to actively seek employment.
 - Voluntarily quitting.

http://workforcesecurity.doleta.gov/unemploy/pdf/Leading_Causes_UIOverpayments.pdf

Cost of Unemployment

- Improper UI payments by state:

Estimated Improper Payment Rate



Cost of Unemployment

- An increase in chargeable UI claims result in:
 - Higher tax rates
 - Employers are charged up to 18 months for former employees.
 - Costs of processing, fighting an unemployment claim
 - Cost of hiring a replacement
 - The higher an employee's salary is, the higher their replacement cost will be.
 - Impacts the bottom line

Mitigating UI Cost



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Documentation

- If it's not documented, it didn't happen!!!
 - Supporting documents submitted during the initial claim and state calls become part of the appeals hearing.
 - Witnesses who are able to provide first hand testimony are a great resource to have during the hearing.
 - Reporting manager, team lead, HR professional

Policies and Procedures

- Represent the company's stance on what's expected from its employees.
- Specifically set expectations and help employees understand limitations for behavior and conduct.
- Establish a method for conducting business and disciplinary action.

<http://www.pcg-services.com/getting-right-with-policies-and-procedures/>

Policies and Procedures

- Company practices outline a company's progressive disciplinary action.
 - Verbal warning
 - Written warning
 - Termination
- Company practices will vary by company and industry, but employers should keep their handbook updated and have employees acknowledge it.

<http://www.pcg-services.com/getting-right-with-policies-and-procedures/>



Policies and Procedures

- Set a precedent for employees when it comes to acts of misconduct.
- Misconduct pertaining to unemployment means:
 - Mismanagement of a position of employment by action or inaction,
 - Neglect that jeopardizes the life or property of another,
 - Intentional wrongdoing or malfeasance,
 - Violation of a law, or policy or rule adopted to ensure the orderly work and the safety of employees,
 - BUT does not include an act in response to an unconscionable act.



Workplace Investigations

Internal investigations help UI claims by:

- Demonstrating the course of action by the employer. Including additional efforts to resolve workplace issues or concerns.
- Providing witness statements from co-workers advising the impact of the terminated employee's actions.
- NOTE: Investigation notes are usually **not** submitted with the claim or included in the hearing packet.

PEO Clients and Unemployment

- G&A UI Department's role:
 - Investigate and respond timely to claims.
 - Provide quality response to state calls, benefit/wage audits.
 - Appeal analysis, hearing preparation and attendance.
- Professional resources:
 - Payroll
 - Tax professionals
 - HR advisors

PEO Clients and Unemployment

- Benefits of PEO
 - G&A Partners' PEO clients are under the G&A account number
 - UI Tax Account
 - Administrative services
 - Changes in labor laws, updates and practices

PEO Clients and Unemployment

- Partnership between clients and G&A
 - Consult your G&A Client Advocate
 - Employee relation concerns
 - Terminations
 - Employee handbook
 - Make sure reassignment is explained to claimants at the time of termination
 - Texas Labor Code 207.045I

Common UI Mistakes To Avoid

- The most common mistakes employers make that cause difficulty in unemployment claims based on a discharge are:
 - Failing to give a final warning prior to discharge;
 - Inconsistent discipline between two similarly-situated employees;
 - Failing to follow the stated disciplinary policy;
 - Telling the state agency that the claimant was fired for an "accumulation" of incidents, instead of a specific final incident;

http://www.twc.state.tx.us/news/efte/ui_law_qualification_issues.html

Common UI Mistakes To Avoid

- Letting too much time pass between the final incident and the discharge;
- Telling the state agency that the claimant was "unable" to satisfy performance standards;
- Allowing the impression that the discharge was really based upon a personality dispute; and
- Failing to present firsthand witnesses and proper documentation when needed.

http://www.twc.state.tx.us/news/efte/ui_law_qualification_issues.html



Q&A

Reminders

- The recording of this webinar will be available on the G&A Partners website soon (www.gnapartners.com).
- This webinar has been pre-certified for 1 hour of general recertification credit toward PHR, SPHR and GPHR recertification through the HR Certification Institute.

We will send out an email to all those who are confirmed as attended with the program ID code to note on your HRCI recertification application form.



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