

Governmental Appointees and Unemployment Insurance

Issues

- “Pink Slip”
- Categorization of the Separation
- Basic Eligibility Requirements
- Determining Monetary Eligibility
 - » Elected Officials
 - » Major Policy-making/Advisory
 - » Other non-appointed state employees
- Filing for Benefits
- Miscellaneous issues

What is a “Pink Slip”?

- Technical term - “Separation Packet”
- It’s not really pink anymore!
- Every separating employee should get one
 - *Can* file for UI benefits *without* one
- Contains filing instructions and key information in order to facilitate claim filing
- Reason for separation language *at request of Governor/Governor elect* will be neutral, e.g., Termination – Appointment Ended.

Categorization of the Separation

- There are only 3 kinds of separations: (1) Voluntary Leaving; (2) Discharge; and (3) Lack of work.
- Instant case is:
 - *not* a lack of work;
 - *not* a *voluntary* resignation or leaving (unless you leave prior to Governor's/Governor Elect's acceptance;
 - *is* a *discharge* for reasons other than wilful misconduct in the course of employment, e.g., at request of Governor/Governor elect.

Basic Eligibility Requirements for Receipt of UI Benefits

- Be fully or partially unemployed...
 - » ...through no fault of your own...
- Be physically and mentally able and available for full-time work
- Be making reasonable efforts to find full-time work (3 job efforts per week)
- Be monetarily eligible (next slides)

Determining Monetary Eligibility

- Your benefit amount is based on your earnings from employment in your *base period*
 - » *Conventional Base period* = first 4 of the last 5 completed calendar quarters
 - Filing today (4th Qtr. 2018) – last 5 completed quarters are 3rd of '18, 2nd of '18, 1st of '18, 4th of '17 and 3rd of '17
 - Base period is 1st four: 3rd of '17 to 2nd of '18
- Maximum Weekly Benefit Rate = \$631
(effective 10/7/18)

Determining Monetary Eligibility

(cont.)

Weekly Benefit Rate

Step 1 - Calculate the average earnings based on the *two* highest base period quarters*

Step 2 - Divide by 26 to a maximum of \$631

Step 3 - Multiply that figure by 40

(The “40 times” figure must be equal to or greater than the total amount of *base period earnings* for the claimant to be eligible for weekly benefits equal to the figure derived in Step 2.)

* Construction Worker – single high quarter

Determining Monetary Eligibility (cont.)

Benefit Year – fifty-two week period commencing with the Sunday of the week in which the claimant initiates benefits.

Total Unemployment Benefit Rate – the amount of *regular* benefits available during the benefit year = 26 times the weekly benefit rate (\$555 X 26 = \$14,430)

- Pension deduction
- Dependency allowance (\$15 each)

Elected Officials

- Conn. Gen. Stat. § 31-222(a)(1)(E)(iii):
...the term "employment" does **NOT** apply to service performed... in the employ of a governmental entity... if such service is performed by an individual in the exercise of duties (I) as an ***elected official***; (II) as a ***member of a legislative body***, or a member of the judiciary, of a state or political subdivision...
- The definition of employment specifically ***excludes wages*** from services performed as an elected official from UI coverage.

Major Nontenured Policy-making or Advisory Positions

- Conn. Gen. Stat. §222(a)(1)(E)(iii)(V)(i) provides:
...the term "employment" does **NOT** apply to service performed... in a position which, *under or pursuant to the laws of this state...* is designated as (i) a **major nontenured policy-making or advisory position**, or (ii) a policy-making position the performance of the duties of which does not require more than eight hours per week...

Major Nontenured Policy-making or Advisory Positions

(cont.)

- Policy-making or Advisory duties *must be designated by state law* (statute, regulations, etc.)
- Clearly applies to Commissioners and Department Heads
- Analysis is normally conducted on a case-by-case basis

Major Nontenured Policy-making or Advisory Positions

(cont.)

■ Likely dispositions:

- **High-level political appointees**, e.g., Commissioners and Department Heads come within this provision
 - » Therefore, their wages would **not** be considered for purposes of UI coverage.
- **Lower level appointees** – not designated as policy-making/advisory by statute
 - » Therefore, wages are usable for purposes of UI coverage

Major Nontenured Policy-making or Advisory Positions

(cont.)

- Case-by-case analysis of Appointees:
- Some considerations will be:
 - » (1) the appointing authority;
 - » (2) the nature of the duties performed, e.g., acting as an advisor or formulating plans to implement broad goals; and
 - » (3) whether state law specifically designated the position with major nontenured policy-making or advisory functions.

Other *Non-appointed* State Employees

- Will *not* have any issue with the usability of wages (like an elected or major policy-making appointed official).

Miscellaneous Issues: Is Act of Filing for UI Benefits Disclosable to the Public

- No, not at *first level* per Conn. Gen. Stat. § 31-254
- However, if either party files an *appeal*, the records are open to public inspection pursuant to Conn. State Agencies Regs. § 31-237g-7(b).

Miscellaneous Issues:

How will *Accrued Vacation* Affect my Weekly Benefit Rate?

- Per Conn. State Agencies Regs. § 31-236-47, “...where the vacation pay relates to... identifiable weeks, the Administrator shall *allocate* the vacation payment.
- Cannot receive UI benefit *and* vacation pay for identifiable vacation week(s).

Miscellaneous Issues:

Is Amount of *Pension* Deducted from Weekly Benefit Rate?

- Yes, if an individual is receiving a pension from a *base period employer*.
- Conn. Gen. Stat. § 31-227(g) requires the retiree's WBR to be *offset* by the prorated weekly amount of his or her pension *if*:
 - the pension at issue was *maintained or contributed* by a *base period employer*, e.g., the CTDOL; *and*
 - the services performed for the pensioning employer in the Base Period *affected the retiree's eligibility* for the pension, or *increased* its amount.

Miscellaneous Issues: Refusal of Work

- Conn. Gen. Stat. § 31-236(a)(1) bars payment to claimants who refuse an offer of available, suitable work without sufficient cause.
- Re-employment rights will be assessed in the context of whether it constitutes an offer of suitable work

Questions & Answers



Office of State Ethics

NEXT UP:

Post-State Employment

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