

## Best Practices: Ensuring Efficiency and Preventing Penalties

### **Alert!** Employers Are Obligated to Provide Complete, Accurate, and Timely Separation Information at the Beginning of the Unemployment Process

For Immediate and Ongoing Release  
To All Locations

June 28, 2010

#### States Emphasize Reducing Overpayment and Fraud: The Impact on Employers

All state unemployment agencies require complete details be provided at the initial level of the unemployment claim. States no longer tolerate insufficient details with the initial claim response, in part because of the focus on reducing unemployment overpayments to claimants and fraud. From the State's perspective, the employer and claimant are the knowledgeable parties and should have the facts at hand; therefore, the state looks to the employer for professional and complete information on a separation. When an employer fails to provide complete supporting separation information the state must rely on the available information provided to them to make a determination of benefits.

#### Penalties for Employers Supplying Late or Insufficient Information

Some states are applying monetary penalties and/or penalties that could remove an employer's rights to pursue the claim further. In addition, some states are penalizing the employer for insufficient or inaccurate responses at the claim level. This climate is ever-changing and due to demands made to increase efficiencies and reduce costs, several states are anticipated to follow suit by the end of the calendar year. Penalties should not be the only incentive to provide separation information up front. It is good business practice to provide all the separation information, details and documents with the initial claim response for a number of reasons including:

1. Shortening or mitigating the appeals and hearings process, saving time and money for both the State and the employer.
2. Building good rapport with the state and being a good steward of best practices. Having proper documentation readily available is good business practice for employers and the documentation may be needed in other areas than unemployment like Equal Employment Opportunity Commission (EEOC) matters.

#### Unemployment Insurance Benefit Payment Integrity



On November 20, 2009, President Obama signed Executive Order 13520. The purpose of this order is to reduce improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the Federal Government, while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries. The order adopts a comprehensive set of policies, including transparency and public scrutiny of significant payment errors throughout the Federal Government.

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### States Require Detailed, Accurate Information to Make an Accurate Determination

Many states penalize the employer for insufficient responses. Sufficiency is defined as information that is timely, provides complete details, and includes supporting documentation. States will frequently indicate in their determination that the "protest of the claim was not timely" when they mean "sufficient" information was not received timely. States will focus on the final incident that initiated the claimant's separation and they need supporting documentation to understand the complete picture. Employers should supply copies of: written warnings, company policies, resignation letters, admission statements, and any other documents that support the reason for separation and substantiate "the burden of proof." A reason for separation alone is not sufficient. TALX has created checklists to help guide their clients in providing the appropriate documentation for discharges, voluntary quits, and lack of work.

#### Information States Typically Require:

- Dates of employment
- Details and date of the final incident that caused the separation
- Description of the events that led to the final incident
- Documents that show:
  - ✓ Claimant knew his job was in jeopardy
  - ✓ Claimant received warnings and knew the consequences of further incidents
  - ✓ Proof the claimant's actions were intentional (not beyond his/her control).
  - ✓ Resignation letter in the event of a voluntary termination

#### Three Penalties States Impose:

- Loss of appeal rights
- Loss of non-charge: In cases where the claimant is later ruled ineligible to receive unemployment benefits, employers lose their protection and can be charged for that unemployment claim.
- Monetary penalties: This could include charging the employer's account for overpayments made or assessing a flat monetary amount.

### Partnering with TALX

TALX's role is to partner with its clients to provide guidance and expertise. Our goals are to: assist our clients in preventing unmerited benefit payments at all levels of the claim, meet the State's requirements for providing timely and sufficient information, and mitigate risk for our clients. Please use the included separation checklists as part of your company's exit process and be prepared to provide all of the supporting documentation to TALX upon request in the event a claim is filed. If you have any questions or concerns related to this service alert please contact your TALX representative for additional information.