

Client Training HQ

Lessening Unemployment Impact

Controlling costs for unemployment claims is an important aspect of managing a business's financial health. While unemployment claims could be a necessary part of doing business, you could take several steps to minimize their impact. This document covers some strategies to help better lessen costs of unemployment claims.

Employment Contracts and Classifying Workers

Ensure that your employees are correctly classified as traditional W-2 employees or independent contractors. Misclassifying workers can lead to higher unemployment insurance (UI) costs and potential legal issues. Clearly define the terms of employment, including job roles, responsibilities, and expectations in written employment contracts. This can help in case of disputes or claims.

Implement Effective HR Practices

Invest in robust human resource practices to reduce employee turnover, such as proper training, career development, and communication with employees. A happy and satisfied workforce is less likely to file unemployment claims.

HR practices include: Performing detailed reference checks, utilizing Equifax® Client Training experts to help create customized training experiences, consistently using progressive discipline, and enforcing rules and policies uniformly. Follow an employee's progress from the moment they are hired. In addition, conduct a thorough talent assessment before hire to alleviate problems down the road.

Document Employee Performance

Maintain detailed records of employee performance evaluations, disciplinary actions, and any evidence of misconduct or poor performance. These documents can be crucial when contesting unemployment claims.

Warnings are an aspect of progressive discipline that effectively ensures an employee understands what is expected of them. State unemployment agencies look for warnings, in most instances, to determine if the claimant was discharged for misconduct and effective, clear warnings help the employer meet the Burden of Proof in discharges. Elements of a good written warning include the violation, expected action to improve, the consequences if the standard is not met, the employee's action plan and comments, and signatures of the employee, witness, and issuer.

Follow employment laws and regulations: Comply with all federal, state, and local labor laws and regulations. Staying in compliance can reduce the likelihood of claims being approved.

Develop a consistent termination process: When an employee needs to be terminated, follow a consistent and fair termination process. Clearly communicate the reasons for termination and provide employees with opportunities to improve their performance before termination.

Understanding Burden of Proof: Burden of Proof typically falls on the party who initiated the separation. In the case of an involuntary discharge, the Burden of Proof responsibility falls on the **employer**. They must prove they have a reasonable policy that the **claimant** was made aware of and demonstrate the claimant's willful and wanton disregard of the policy. If the claimant initiated the separation, then the Burden of Proof responsibility falls on them to prove they made every attempt to preserve the employer/employee relationship and they had no other alternative, but to quit.

Separation Forms

Many states require or recommend separation notices be sent to separated employees. A separation notice is a formal document given to an employee and/or the state that informs the employee they are separating from the company, why they are being let go, and their rights to file for unemployment benefits.

Know the Separation Reason Categories:

- A **voluntary resignation**, especially for non-compelling reasons, is usually disqualifying, but there are significant exceptions. In a voluntary resignation, or voluntary quit, the Burden of Proof rests with the former employee.
- An **involuntary discharge** for misconduct is connected to the work that resulted in a tendency for damage to the employer's interests. The Burden of Proof is on the employer; therefore, the use of "unsatisfactory performance" in cases where the employee is able to perform the job and is negligent should be avoided. Be prepared to provide the final incident details.
- **Lack of Work** claims provide benefits to individuals who are separated from work due to no fault of their own and are the reason unemployment insurance was created. A claimant must be able to work, available for work, actively seeking work, and being monetarily eligible.

Respond Promptly to Unemployment Claims

When you receive a notice of an unemployment claim, respond promptly and accurately with the required information. Failure to respond can result in the claim being approved by default.

Contest unjustified claims: If you believe that an unemployment claim is unjustified, consider contesting it. Provide evidence and documentation to support your case during any appeals or hearings.

- **Appeal when warranted:** An appeal is your request to the state to assign a Hearing Officer to review the facts of a particular case because you believe the eligibility rules have not been properly applied. Appeal if you disagree with a decision allowing the claimant benefits. You must be prepared to present facts and evidence.
- **Be prepared for hearings:** Hearings require firsthand testimony as to the facts and events under consideration. Depending on your contracted services, provide all information to your Hearing Representative when they contact the individuals at your organization in order to prepare for a hearing and have all documents readily available during the hearing.

- **Maintain appropriate records:** Keep thorough and organized records of all employment-related documents, including payroll records, time and attendance records, and personnel files. These records can be invaluable when responding to unemployment claims.
 - **Effective documentation is crucial:** Many times, employers may have the Burden of Proof with the state agency. Documentation may help in matters outside UI, such as EEOC matters and employment litigation. Documentation in involuntary discharges and voluntary quit separations is different. In the majority of cases involving discharge, documentation is the only means an employer may have to back up the decision to terminate. Also, retain documents for at least 18 months. Please view our UC Separations Support Guide for more information regarding separations.
- **Stay informed:** Keep up-to-date with changes in unemployment insurance laws and regulations in your jurisdiction. This will help you adapt your practices to minimize potential claims.
 - Use Equifax reports and services to track claims, monitor potential liability, and review past history to foresee budgets for unemployment taxes. Be familiar with the base period and benefit year in your states and use tax information provided to ensure budgets are adequate.
- **Train your management team:** Ensure that your management team understands how to handle employee terminations, unemployment claims, and appeals. Proper training can help avoid costly mistakes.

Utilize Your Equifax Partnership

Equifax is your partner and works with you at every stage of the unemployment process—claims, appeals, hearings, charge audits, best practices, unemployment reports, and client education. Don't hesitate to ask any questions of your UC Service Team.

Consider Reemployment Services: Helping transitioning employees find another job after a staff reduction, position elimination, or other involuntary separation can help control the duration of non-protestable claims.

More Training Available!

Check out additional training resources available on our site, [Connections](#).

The information provided is intended as general guidance and is not intended to convey any tax, benefits, or legal advice. For information pertaining to your company and its specific facts and needs, please consult your own tax advisor or legal counsel.