

Governor Appoints Kathy Manderino, Secretary of Labor & Industry

Kathy Manderino was unanimously confirmed by the Senate to serve as Pennsylvania's 34th secretary of the Pennsylvania Department of Labor & Industry on May 13, 2015.

"Kathy Manderino has extensive experience in education and human services, and has also served as a member of the Pennsylvania House of Representatives," Gov. Wolf said. "Kathy will work with me to reduce unemployment, provide adequate job training, and improve Pennsylvania's economic development and business climate."

Kathy served as a Pennsylvania state representative for the 194th district in Philadelphia and Montgomery counties from 1993 to 2010. During her time with the House, she chaired the House Ethics committee, Appropriations subcommittee on human services, and the Judiciary subcommittee on family law.

Most recently, Kathy was the campaign manager for the Campaign for Fair Education Funding, a statewide coalition that advocates for fair and adequate public education funding in Pennsylvania.

Prior to that, she served as senior vice president of Intercommunity Action Inc., an organization providing services and housing to older adults and people with intellectual disabilities and behavioral needs.

Before being elected to public office, Kathy was a private practice attorney in Philadelphia. Kathy's career has come full circle: Her first post-college positions were with the Council for Labor & Industry and the Philadelphia Area Labor-Management Committee.

Kathy earned a bachelor's degree in public service from The Pennsylvania State University, her law degree from Temple University, and honorary doctor of humane letters from Philadelphia College of Osteopathic Medicine for her service to the community and the commonwealth.



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Common Mistakes When Filing a Petition for Reassessment

Employers receiving a Notice of Assessment from the Office of Unemployment Compensation Tax Services (OUCTS) are entitled to file an appeal, called a Petition for Reassessment, with the Unemployment Compensation Tax Review Office (UCTRO) if they do not agree with the assessment.

Although the names of the offices are similar, it is important to note that the UCTRO is not a part of the OUCTS. UCTRO is a separate office which conducts independent reviews of determinations made by the OUCTS.

There are three common mistakes employers make when submitting a Petition for Reassessment.

1. **Timeliness:** An employer has 15 days from the date on the Notice of Assessment to file their appeal by paper, fax or electronically. Presently, paper is the most common way employers file appeals. Determining the date of filing depends on the way the appeal is filed, and is detailed in the [department's regulations](#). If the appeal is not filed with the UCTRO within 15 days from the date of the Notice of Assessment, the appeal is untimely. Untimely appeals will be dismissed.
2. **Factual and Legal Reasons:** If an employer disagrees with the assessment they received, they must provide the factual and legal reasons why the assessment is believed to be incorrect. While an employer may argue that they do not have money to pay an assessment, or that the assessment was not fair, these are not legal grounds to challenge the assessment. Failing to list factual and legal reasons for the appeal, or leaving that section of the Petition for Reassessment blank, will result in the appeal being dismissed.
3. **Incomplete Form:** The Petition for Reassessment form must have all sections completed, be signed by the appropriate party, and be notarized. A copy of the Notice of Assessment the employer is challenging for the appeal must be attached to the Petition for it to be considered complete. Appeals may be dismissed for incompleteness.

If an employer avoids the three common errors above, the merits of their case may be considered and a formal hearing may be scheduled.

Prevent Improper Unemployment Compensation Payments

When a former employee applies for unemployment compensation (UC), the department sends a request for separation information to the employer to help the department properly determine his or her eligibility. A significant cause of improper UC benefit payments is untimely and inadequate separation information from the employer.

Act 75 of 2013 amended Section 302 of the UC law in order to address overpayments of UC benefits that occur as a result of employers not responding to requests for information, or responding in an untimely or inadequate manner.

If a claimant becomes overpaid because an employer or agent of an employer responds untimely or in an inadequate manner to a request regarding the claimant's eligibility for UC, the employer's account will no longer be credited when the overpayment is established. Rather, the employer's account will be charged for the UC benefits overpaid to the claimant.

Untimely Response - A response is untimely if it is filed more than 14 days after the department's request for information is mailed or transmitted electronically to the employer or the employer's agent.

Inadequate Response - A response is inadequate if it misrepresents or omits facts that, if represented accurately or disclosed, would have been a basis for the department to disqualify the claimant from receiving UC.

Prevent Improper UC Payments continued from page 2

Employers are encouraged to provide their contact information to former employees on Form UC-1609P, Employer Information Form, so that the former employees can provide their employer's correct contact information to the department when filing an application for UC benefits. Form UC-1609P can be found on the "Employers" tab at www.uc.pa.gov. Providing this form helps to ensure that requests for separation information are sent to the employer's preferred address for a timely and adequate response.

A More Efficient System to Help Expedite UC Claims

L&I is partnering with the United States Department of Labor (USDOL) to provide a solution to help businesses efficiently and accurately respond to UC information requests and to expedite the processing of claims.

The State Information Data Exchange System (SIDES) and SIDES E-Response options offer employers a free, secure, electronic and nationally-standardized format to better supply the data needed to respond to UC information requests, reduce follow-up phone calls and streamline UC response processes.

Both systems are designed to meet the unique needs of businesses large and small. For employers and third party administrators (TPA) that handle a large volume of UC information requests, SIDES provides computer-to-computer interface between the employer and TPA IT systems and state agency networks.

For employers with a limited number of UC claims, the SIDES E-Response website provides an easy and efficient way to respond to information requests from the state UC program. To sign up for SIDES E-Response, please complete the enrollment form.

SIDES will help reduce one of the most common causes of UC overpayments: inadequate separation information being provided to the department. By utilizing SIDES and SIDES E-Response, employers can quickly notify the department of the reason for the claimant's separation. When employers provide timely and accurate information, it reduces the need for unnecessary appeals and helps ensure proper payment of benefits; otherwise, the UC service center may only have the claimant's statement to consider when determining eligibility for benefits. To learn more about SIDES and SIDES E-Response, visit <http://info.uisides.org> or www.dli.state.pa.us.

What is the Difference Between an Employee and an Independent Contractor?

"Employment" is defined in Section 4(I)(1) of the Pennsylvania UC law as "...all personal service performed for remuneration by an individual under any contract of hire, express or implied, written or oral, including service in interstate commerce, and service as an officer of a corporation."

Under Section 4(I)(2)(B) of the law, it is presumed that services performed by an individual for wages are "employment." In order to prove that the individual is an independent contractor, both of the following must be shown to the satisfaction of the department:

1. The individual has been and will continue to be free from control or direction over the performance of the services involved, both under the contract of service and in fact;
and
2. As to such services, the individual is customarily engaged in an independently established trade, occupation, profession, or business.

If an individual performs services in the construction industry, the Construction Workplace Misclassification Act

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(Act 72) imposes additional criteria that must be met for the individual to be recognized as an independent contractor. Under Act 72, all of the following requirements must be satisfied:

1. The individual has a written contract to perform the services;
2. The individual is free from control or direction over the performance of the services involved both under the contract of service and in fact; and
3. As to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business.

The secretary of L&I recently held in an administrative adjudication that the “written contract” must be specific to the project for which the individual will be performing services.

In order to show that an individual in the construction industry is customarily engaged in an independently established trade, occupation, profession, or business, Act 72 requires that the following be shown:

1. The individual possesses the essential tools, equipment, and other assets necessary to perform the services independent of the person for whom the services are performed;
2. The individual’s arrangement with the person for whom the services are performed is such that the individual shall realize a profit or suffer a loss as a result of performing the services;
3. The individual performs the services through a business in which the individual has a proprietary interest;
4. The individual maintains a business location that is separate from the location of the person for whom the services are being performed;
5. The individual either (A) previously performed the same or similar services for another person in accordance with (1), (2), (3) and (4) while free from direction or control over performance of the services, both under his contract and in fact; or (B) holds himself out to other persons as available and able, and in fact is available and able, to perform the same or similar services in accordance with (1), (2), (3) and (4) while free from direction or control over performance of the services;
6. Maintains liability insurance during the term of the contract of at least \$50,000.

In order for the department to determine whether a worker is an employee or an independent contractor, we must review the specific facts of each case. In order to obtain this information, the worker and the employer will be asked to complete Form UC-110, Employment Status Questionnaire, and provide us with copies of any written contracts and other relevant documentation.

If you are an employer and have questions about the status of your workers, or if you are a worker and you believe you are being incorrectly classified as an independent contractor, please contact the UC Employer Contact Center at 866-403-6163, weekdays from 8:00 AM until 4:30 PM.

UCMS Profile Maintenance Reference Guide

Changing your demographic, ownership and TPA information is easily done using the Employer Profile portal in UCMS.

- Access www.paucemployers.state.pa.us or use the  logo found on the L&I Home Page www.dli.state.pa.us to access the UCMS login page and log in.
- From the Navigation Menu select “Employer Profile,” found at the top of the menu.
- To add or update under Employer Profile

UCMS Profile Maintenance Reference Guide *continued from page 4***Profile Maintenance:**

- Summary – This page offers a quick glance at your contact information. You can select “Edit Profile” to make changes or click on a particular tab to update information. If you need to inactivate your account, select “Close Account” under “Account Status.”
- Name - Changes can only be made to the trade name. If the legal name is incorrect or has changed, you need to contact us at the telephone number listed below. If the business structure has changed, you need to complete a new PA-100 Enterprise Registration Form.
- Addresses – You can record street, mailing, statement of account, and records addresses.
- Telephone – You can list three telephone numbers – business, fax and mobile.
- Email – You can provide an email address for electronic correspondence, if desired.
- Contacts – You can provide as many contacts as you like, including telephone numbers.
- Preferences - Choose the way you prefer for us to send you information – email or U.S. mail. If selecting email, an email address must be provided or correspondence will continue to be sent via U.S. mail.

Organization:

- Structure – If any of the information is incorrect, please contact us at the number listed below.
- Owners/Responsible Parties – Here you can update ownership information.

Manage Representatives:

- Add or change your TPA.

If you have questions or need assistance, please call the UC Employer Contact Center at 866-403-6163, weekdays from 8:00 AM until 4:30 PM.

Non-Compliance Penalty

Beginning with the first quarter of 2014, employers were required to file all quarterly UC tax and wage reports electronically through the department’s Unemployment Compensation Management System (UCMS). Effective with the first quarter of 2015, employers without a department-approved waiver whose reports are not filed electronically will be charged a penalty equal to 10 percent of the contribution amount due, with a minimum of \$25 and a maximum of \$250. UC reports for the first quarter of 2015 were due April 30, 2015.

To access UCMS, go to <https://www.paucemployers.state.pa.us> or from the www.dli.state.pa.us website, select the  logo.

There are several options from which to choose to electronically file UC tax and wage data. These options are:

- Online reporting (for employers reporting fewer than 100 employees)
- File upload through the employer portal
- File Transfer Protocol (FTP)

Additionally, customers logging into UCMS have online access to:

- Update demographic information.
- Associate a TPA to take certain actions on their behalf.
- View account balances, reporting requirements, and important messages.
- Assign access roles in UCMS to employees within their company.
- View filing history and file/pay/amend reports.
- View payment history and financial information.
- View rate history and submit rate appeals.
- View incoming and outgoing correspondence.

Important Tax Facts for 2015

The Office of UC Tax Services mailed the Pennsylvania Contribution Rate Notice for calendar year 2015, Form UC-657, on Dec. 31, 2014. Employers who received their 2015 UC Contribution Rate Notice with this mailing date will have the following important tax deadlines:

- **Jan. 30, 2015**, was the last day to file a timely Voluntary Contribution to lower the 2015 contribution rate. (A Voluntary Contribution must be filed within 30 days from the mailing date of the UC Contribution Rate Notice or no later than April 30, 2015, whichever is earlier.)
- **March 31, 2015**, was the last day to file a timely rate appeal to the contribution rate reflected on the UC Contribution Rate Notice. (A timely rate appeal must be filed within 90 days of the mailing date of the UC Contribution Rate Notice.) Please note that the surcharge adjustment, additional contributions and interest factor are not appealable items.
- **April 30, 2015**, was the last day to file a timely election for a Debit Reserve Account Balance Adjustment.

Employers who received a 2015 UC Contribution Rate Notice with a mailing date other than Dec. 31, 2014, will need to adjust these deadlines according to the instructions on the reverse side of the form.

Taxable Wage Base and State Adjustment Factor

As part of the Act 60 amendments to the Pennsylvania UC law, the taxable wage base for employer contributions will be increasing each year from 2013 through 2018. At the same time, the maximum state adjustment factor has been decreased from 1.5 percent to 1.0 percent through 2016 and will decrease further thereafter. The following chart lists the taxable wage base and state adjustment factor amounts beginning 2012:

Calendar Year	Taxable Wage Base for Employer Contributions (per employee per year)	Maximum State Adjustment Factor
2012 and prior	\$8,000	1.5%
2013	\$8,500	1.0%
2014	\$8,750	1.0%
2015	\$9,000	1.0%
2016	\$9,500	1.0%
2017	\$9,750	0.85%
2018 and thereafter	\$10,000	0.75%

The following solvency measures will be in effect for 2015:

Employer Taxes

A 5.1 percent (.051) surcharge on employer contributions, unchanged from 2014. The surcharge adjustment is computed by multiplying your basic rate by the 5.1 percent surcharge. The surcharge adjustment does not apply to reimbursable employers.

Important Tax Facts for 2015 *continued from page 6*

A 0.65 percent (.0065) additional employer contribution, unchanged from 2014. The additional contribution is added to your tax rate as adjusted by the surcharge. The additional contribution is not applicable to non-delinquent newly liable and reimbursable employers.

A 1.1 percent (.011) interest factor, unchanged from 2014. Due to the passage of Act 60 of 2012, since 2013 the interest factor is being used to fund the payment of bond obligations. It may also be used to fund payment of interest on federal loans, although Pennsylvania does not currently have a federal loan balance. The interest factor is not applicable to non-delinquent newly liable employers. Also, it is not credited to the employer's reserve account nor considered for federal certifications.

Employer Taxes Example:

Basic Rate		Surcharge		Additional Contributions		Interest Factor		2015 Total Contribution Rate
.0210	+	(.0210 x .051 = .001071)	+	.0065	+	.011	=	0.039571

Employee Contributions

A 0.07 percent (.0007) tax on employee wages, or 70 cents on each \$1,000 paid, unchanged from 2014. Employee withholding contributions are submitted with each UC-2/2A quarterly report. Employee withholding applies to the total wages paid in 2015. It is not limited to the \$9,000 taxable wage base for employer contributions. Failure to withhold or remit this employee tax could result in interest charges and may affect your contribution rate for subsequent years.

Benefit Reduction

A 1.7 percent (.017) benefit reduction, unchanged from 2014. With few exceptions, the weekly UC benefit amount for all claimants will be reduced by 1.7 percent.

Information on penalties and interest for unpaid UC taxes will be available online in the near future at www.dli.state.pa.us. To access this information, select "Employers," then "Unemployment Compensation," then "Filing Information," and then select "Calculating Contributions, Penalties & Interest."

If you have any questions concerning this information, please contact the Employer Contact Center at 866-403-6163 Monday through Friday from 8:00 AM until 4:30 PM.

Treasury Offset Program Recovers Millions in Overpayments

Federal law permits states to recover certain UC debts from a claimant's federal income tax refund under the Treasury Offset Program (TOP), which is administered by the United States Department of Treasury (Treasury). The TOP program applies to overpayments incurred as a result of fraud or unreported earnings.

To assist the UC service centers in determining whether a claimant has unreported earnings, employers should always respond to requests for wage verification and wage information. This allows the UC service centers to assess overpayments and penalties to claimants who have received benefits fraudulently and properly credit the employer's account.

During January 2015, L&I submitted approximately 38,597 overpaid claimants to Treasury. Since the program's inception in 2011 through April 2015, L&I has recouped approximately \$62.9 million in fraudulent overpayments from federal tax refunds.

Change in UC Service Center Hours

UC service centers no longer accept calls on Wednesdays. Service centers will take calls Mondays, Tuesdays, Thursdays and Fridays from 8:00 AM to 4:00 PM. This change is due to reduced UC claims levels and corresponding federal funding reductions. We are appropriately reducing costs while maintaining customer service.

The Pennsylvania New Hire Reporting Program

The Pennsylvania New Hire Reporting Program was established in 1998 in accordance with federal and state law, and mandates that all employers report basic information about all newly hired and re-hired employees. Administered by the Center for Workforce Information and Analysis (CWIA) within L&I, the Pennsylvania New Hires Reporting Program aids in the collection of child support from non-custodial parents. Information provided by employers is matched against files containing the names of non-custodial parents who owe child support. When a match occurs, a notice is immediately sent notifying the employer to withhold child support, thus expediting child support payments. For calendar year 2014, nearly \$21.5 million in child support monies were collected due to the new hire cross match. Since 2010, child support collections activity from wage garnishments issued to obligors totaled \$134.5 million through December 2014, an average of \$2.2 million per month!

Data collected from the Pennsylvania New Hire Reporting Program is also used to detect fraud in the UC and workers' compensation programs. Since 1998, this matching process has identified in excess of 76,500 UC fraud overpayments resulting in the recovery of \$33.5 million.

CWIA continues to increase public awareness of the New Hire Program (and increase employer compliance with reporting laws) by conducting outreach meetings with employers at local CareerLink® offices, partnering with the Department of Human Services at the local level through the Office of Child Support Enforcement, and educating and informing both the public and employers about the importance of reporting new hires.

To learn more about the New Hire Reporting Program and reporting process, please visit www.CWDS.pa.gov and click on the "Report New Hires" hyperlink under the "Employers" section of the page.

UC Issues Update is published by the Pennsylvania Department of Labor & Industry on a quarterly basis. Questions, comments and feedback can be sent via email to uc-news@pa.gov. General UC Tax information is available by calling 717-787-7679 or outside the Harrisburg area, toll free 866-403-6163 from 8 AM to 4:30 PM. If you have questions regarding UC benefit charges to your account, please call 717-787-4677 from 8 AM to 4:30 PM. **If you suspect fraud, report it online at www.uc.pa.gov under "Report Fraud," or contact 800-692-7469.**

Auxiliary aids and services are available upon request to individuals with disabilities. Equal Opportunity Employer/Program