

How Will Unemployment Claims Affect My Contribution Rate

If an employer qualifies for an experience-based contribution rate, the employer's rate is a reflection of the employer's unemployment compensation (UC) history from the date the employer became subject to the Pennsylvania UC law. An experience rate takes into consideration wages paid by the employer and reported to the department, contributions paid to the UC Fund and benefits that are charged to the employer's reserve account. Under the UC contribution rate formula, benefits charged to an employer's account put upward pressure on the employer's rate for subsequent calendar years.

The extent that UC benefit charges may affect an employer's rate depends on the amount of the charges in relation to other values that have a favorable impact on a contribution rate. If the amount of the benefit charges is high in comparison to the size of the employer's payroll or the amount of contributions the employer has paid to the UC Fund, the benefit charges will have a greater impact on the employer's rate.

One component of an experience rate is the "reserve ratio factor." This is the ratio of an employer's reserve account balance to his average payroll for the most recent three fiscal years. The higher the reserve ratio is, the lower the employer's rate will be. An employer's reserve account balance is determined by subtracting the benefits charged to the employer from the amount of contributions paid by the employer, over the lifetime of the employer's UC account. Benefit charges decrease the employer's reserve account balance and lower the reserve ratio, which can result in a higher contribution rate.

Another rate component is the "benefit ratio factor." This is the ratio of the employer's average benefit charges to his average payroll, both for the most recent three fiscal years. The higher the benefit ratio is, the higher the employer's rate will be. Benefit charges directly increase the benefit ratio and thus can raise the employer's contribution rate. The benefit ratio factor looks only at benefit charges for the most recent three fiscal years. Therefore, benefit charges cease to affect the benefit ratio factor when they are no longer within this three fiscal year period. However, the reserve account balance is a lifetime figure. Benefit charges never leave the calculation of the employer's reserve account balance, but their impact can be diminished over time if the employer's future contributions exceed his future charges.

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How Criminal Misconduct Affects the UC Benefit Appeal Process

In situations where an employer discharges or suspends an employee for alleged conduct that also results in the employee being arrested and charged by criminal authorities, the out-of-work employee frequently applies for UC benefits. The UC Board of Review (UCBR) in the past has sometimes deferred a decision on a UC appeal until the criminal process was completed.

Furthermore, the UCBR reminds employers and claimants that the same evidentiary burdens apply in cases of this type as in other involuntary separation cases. The fact that a claimant is facing criminal charges does not result in an automatic disqualification from eligibility. An employer still has the burden of proving that the claimant in question performed the action(s) that resulted in his or her separation from employment. Once the employer proves what occurred, the burden then shifts to the claimant to prove that there was good cause for his or her action(s). Each party should come to the Referee hearing fully prepared to prove its respective case with first-hand testimony.

One of the ways that an employer may prove its case is if the claimant is convicted of the charges that stem from the action(s) for which the claimant was discharged or suspended. However, because the UC hearing almost always occurs well before the criminal process is concluded, the employer usually will not be able to present documentary evidence of the criminal conviction at the initial Referee hearing. In such cases, the UCBR has the discretion in the appropriate case to defer action on a UC appeal pending disposition of the criminal charges. Because such deferral can delay the UC cases indefinitely, it is a tool that the UCBR will use sparingly, for two reasons. First, the U.S. Department of Labor tracks the timeliness of UC case completion in all states, and federal funding could be jeopardized if the state takes too long to adjudicate its UC appeals. Second, there is no compelling need to await disposition of criminal charges for alleged misconduct where the facts of the situation are familiar to not only the claimant but also the employer. (For example, if a claimant is discharged for an allegation of theft from the employer and criminal charges are also brought for the alleged theft, the employer has the capacity to bring to the initial Referee hearing the appropriate witness or witnesses with first-hand knowledge of the alleged misconduct.)

While the facts of a work-related allegation are usually known to both parties, the employer will not often be familiar with the facts of a non-work-related criminal allegation that also results in the claimant's separation from employment. Therefore, it may not be as feasible for the employer to present a case at the initial Referee hearing when the separation relates to an arrest for non-work allegations. The employer should try its best to prove the underlying allegations, but if that is not feasible, at the very least the employer should make a record about the adverse impact the arrest and potential conviction would have on the claimant's ability to do his or her job. (A showing of adverse impact is required before a claimant can be disqualified for non-work-related misconduct.) If the Referee issues a decision granting benefits due to insufficient evidence of the misconduct, the employer on appeal to the UCBR may request that the matter be deferred pending the disposition of the criminal matter. The UCBR will consider that request, but may choose not to defer due to federal timeliness requirements.

The article below was published in The Patriot-News by Matt Miller, on June 15, 2016. Reprinted here with permission from the Patriot News.

Man Who Got \$102K in Unemployment Comp Scam Sent to Federal Prison

A Lancaster man has been sentenced to 18 months in federal prison for scamming the state out of more than \$102,000 in unemployment compensation.

U.S. Attorney Peter Smith said Wednesday that Angel Carrasco-Rivera, 54, wasn't entitled to that aid because he was employed full-time when he filed for the benefits. He received the jobless aid from 2008 to 2012.

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Carrasco-Rivera was sent to prison by U.S. Middle District Chief Judge Christopher C. Conner based on his guilty plea to a mail fraud charge filed against him in January. That count stemmed from Carrasco-Rivera's use of the mail to file for benefits with the state Department of Labor & Industry, Smith said.

Conner also ordered Carrasco-Rivera to pay \$89,500 in restitution to the state. The charges resulted from a probe by the state Department of Labor & Industry and the U.S. Department of Labor.

Carrasco-Rivera was also sentenced to three years of probation in Lancaster County Court for insurance fraud.

Relief From Charge Requests

Important! When requesting relief from charges to your unemployment account, please submit your completed request to the Employer Services Section and not the UC Service Center. The correct address is: Employer Services Section, P. O. Box 67504, Harrisburg, PA 17106. You can also fax your request to 717-772-0398. If you are not using Form UC-44FR, please be sure to include the employer name, account number, the claimant name, Social Security number, the last day the claimant worked, and the reason for the separation.

Department Works to Promote Registered Apprenticeships

The Department of Labor & Industry is working to create and expand apprenticeships for individuals through a collaborative effort with multiple partners, including unions, employers, and community colleges, among others.

This effort will be implemented through the department's recently created Apprenticeship and Training Office, which will also work to promote registered apprenticeships, typically associated with the skilled trades; provide technical assistance to employers, and facilitate regional partnerships around the expansion of demand-driven, registered apprenticeship programs across the commonwealth.

In short, the Apprenticeship and Training Office will help to create "jobs that pay" and to rebuild the middle class with a well-trained work force, educate the youth of the state about alternatives to college that can lead to a prosperous career, work to fill the talent pipeline, and build on the relationships with various apprenticeship and training-related organizations in communities across the state.

In fiscal year 2015-16 in Pennsylvania, 2,766 apprentices have been registered in 744 apprenticeship programs across the state.

Apprenticeship programs can be set up in any workplace, as there are no prerequisites to starting a new program. The department can work with your business to modify your existing instruction and on-the-job training program to create a viable registered apprenticeship program. We can also develop new employee training programs with related instruction learning and on-the-job training for your registered apprenticeship program.

If your business is interested in setting up an apprenticeship program, contact the Apprenticeship and Training Office Director Eric Ramsay at 717-787-6997 or eramsay@pa.gov.

The Pennsylvania New Hire Reporting Program

The Pennsylvania New Hire Reporting Program mandates that all employers report basic information about all newly hired and re-hired employees in accordance with state and federal law. Administered by the Center for Workforce Information & Analysis (CWIA) within L&I, the Pennsylvania New Hire 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 2015, in excess of \$19.4 million in child support monies was collected due to the new hire cross match. Since 2010, child support collections activity from wage garnishments issued to obligors totaled \$154.1 million through December 2015, an average of \$2.1 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 83,200 UC fraud overpayments resulting in the recovery of \$36.3 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 PA 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 Pennsylvania New Hire Reporting Program and reporting process, please visit www.pacareerlink.pa.gov#reportNewHireLink, and click in the "Report New Hires" section to proceed to the program homepage.

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 a.m. to 4:30 p.m. If you have questions regarding UC benefit charges to your account, please call 717-787-4677 from 8 a.m. to 4:30 p.m. **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

Protect Your Business From Higher Taxes

Help Prevent Improper Payment of Unemployment Compensation (UC) Benefits



How Does UC Impact Employers?

In most states, UC benefits are funded by employer taxes.

Improper payment of UC benefits may result in higher taxes to all employers.

UC benefits allow unemployed workers to continue to buy goods and services.

- **What exactly is an improper payment?**
- **What causes an improper UC payment?**

An improper payment of UC benefits means that a claim for benefits was paid in error. An improper payment of benefits can result when **inaccurate information** is provided by the claimant or employer, or when information is not received by the UC office in a timely manner. Once an improper payment is detected, the claimant is notified of an overpayment.

Did you know . . .

- UC benefits to qualified unemployed workers are funded by employer UC taxes.
- The U.S. Department of Labor estimates that in fiscal years 2011 through 2014 more than 11 percent of UC benefits were paid improperly, usually because of inaccurate or missing information.
- Improper payment of benefits is a serious problem that has a financial impact on employers and can result in higher UC taxes to all employers.

What can you do to help prevent improper UC payments?

Be an active partner to help improve payment accuracy. Help reduce employer costs by taking three critical steps to provide important information to the UC program.

1. Provide complete and accurate employee separation information.

Avoid the need for costly appeals or overpayment of benefits. Provide separation information promptly when requested to help determine claimant eligibility for benefits, and as a result, accurate benefit charges to employers.

2. Respond promptly to any “Request for Verification of Weekly Earnings” from UC.

A prompt response to a request for verification of employee weekly earnings will help prevent improper payment of UC benefits. (An employee may be eligible for a partial UC payment, based on part-time work.)

3. Report all new hires to the State Directory of New Hires by the due date.

Timely reporting of all new hires helps prevent payment of ineligible UC claims after a claimant has returned to work.

The Costs and Consequences of Non-Compliance

Companies that do not comply with state and federal UC requirements for providing employee information face a number of preventable costs and consequences, including:

- ✓ Improper account charges for benefits paid to ineligible claimants
- ✓ Increases in employer UC taxes

In addition to following the UC requirements for reporting employee information, employer partnership with the UC program is just good business.

For more information, please visit www.uc.pa.gov; click on “Employers.”