



**Commonwealth of Massachusetts
Executive Office of Labor and Workforce Development**

Unemployment Insurance Fundamentals

MMA 2013 Annual Meeting

**Deval L. Patrick, Governor
Timothy P. Murray, Lieutenant Governor
Joanne F. Goldstein, Secretary
Michelle Amante, Acting Director**



UI Background

- On August 14, 1935 President Roosevelt signed the Social Security Act, which laid the foundation for the national Unemployment Insurance (UI) program.
- Unemployment Insurance (UI) is designed to be the primary “safety net” for workers who lose their jobs through no fault of their own.
- UI is a federal program administered by state agencies to provide short-term income protection for jobless workers who are:
 - Able to work
 - Available for work
 - Actively seeking employment
- In all states, the system is a federal-state joint venture. Employers either pay premiums in the form of state employment taxes (Contributory), or self-insure, reimbursing the state dollar-for-dollar for benefits paid (Reimbursable).
- UI is one of the most effective economic stabilizers, having a beneficial impact on individual workers and the communities where they live. The Urban Institute estimates that for every \$1 distributed in unemployment compensation, \$2 of economic activity is generated.



Key UI Terminology

- **Base Period:** The last 4 completed quarters upon which the claim will be based. (An Alternate Base Period is used if the claimant is ineligible with the Primary Base Period or if the claimant's MBA is at least 10% greater than the primary MBA).
- **Weekly Benefit Amount/Rate (WBA):** The weekly amount, based upon base period wages, that the claimant is eligible to receive.
 - Calculation: Add together the 2 highest quarters of wages in the base period and divide by 26 to determine the average weekly wage. Divide the average weekly wage by 2 to determine the WBA.
 - The maximum WBA that a claimant can receive at the current time is \$674 (does not include dependency allowance). Our average weekly benefit amount is \$400.
- **Maximum Benefit Amount/Credit:** The total amount of Regular UI benefits the claimant may receive in his/her benefit year.
 - Calculation: Lesser of $WBA \times 30$ (26 weeks when an extension is in effect) or 36% of the total base period wages
- **Dependency Allowance:** In MA, claimants can earn up to \$25 for each qualified dependent, not to exceed 50% of the claimant's WBA.
- **Maximum Potential Charge:** 36% of the total base period wages paid by the employer, not to exceed $30 \times WBA$



UI Eligibility

- **Monetary eligibility:** Claimants must have earned at least 30 times the WBA (generally about 15 weeks) and at least \$3500 in the base period.
- **Reason for Separation:** The claimant must be separated through no fault of his/her own.
- **Weekly certification:** To receive benefits, claimants must certify weekly that they are able, available and actively seeking work, and are not working full time.



Benefit Charges

- All charges are applied via a charge order. The most recent base period employer is charged first (based on the last day worked), reimbursable or contributory.
- When the maximum liability is reached for the first employer, charges will be applied to the next most recent employer, reimbursable or contributory.
- Note: Subsidiary employment differs between contributory and reimbursable employers. For contributory employers, these charges are relieved. If the employer is reimbursable, the employer is moved to the end of the charge order.



Reimbursable Method of Payment

- Government entities and 501(c)(3) non-profit employers may choose the reimbursable method of payment, electing to self-insure (pay dollar for dollar) for UI benefits paid.
- Governmental employers may change their method of payment between December 1-31 for the next calendar year.
 - Once selected, this method is in effect for **2 calendar years**.
- Reimbursable employers must file Employment and Wage Detail each quarter however, they are not required to pay quarterly taxes into the UI Trust Fund.
- Reimbursable employers are billed monthly for all costs incurred as a result of the payment of UI benefits, payable within 30 days.
- Reimbursable employers are reimbursed for overpayments after the overpayment has been recovered by the DUA from the claimant.



Reimbursable and Contributory

- Reimbursable employers may be required to pay benefits under certain circumstances when a Contributory employer would not. For example:
 - Involuntary Separations for urgent, compelling and necessitous reasons
 - Retraining
 - Dependency Allowance
- For contributory employers these costs are covered by a solvency fund. An assessment is made to all contributory employers each year to maintain appropriate funding levels.



Partial Earnings

- Partial earnings are monies earned when the claimant is working less than full time.
- Claimants who work full time, regardless of how much they earn, are not eligible for UI benefits.
- Claimants are required to report to the DUA all earnings while collecting unemployment benefits.
- Earnings disregard = $\frac{1}{3}$ of the claimant's WBA.
- Claimants may earn up to the earnings disregard each week without any deductions to their weekly benefit amount. Earnings in excess of the earnings disregard are deducted dollar for dollar.
- Claimants are not permitted to limit their availability for work in order to remain within the earnings disregard.



Overpayments

- An “overpayment” is a payment that was made to a claimant for a week that was ultimately determined ineligible or for an amount in excess of an adjusted weekly benefit payment.
- MA has one of the lowest overpayment rates in the nation; however we continue to take proactive measures to reduce the amount of overpayments that occur.



Recovering Overpayments

- DUA utilizes multiple methods to recover overpayments:
 - Offsets of future benefit payments
 - Department of Revenue tax intercept
 - Monthly billing process
 - Criminal prosecution



Combating Fraud

- Protecting the integrity of the UI program and trust fund is a responsibility that the DUA takes seriously.
- Through our Program Integrity Department, DUA focuses on the prevention, detection, investigation and prosecution of those who defraud the UI Program.
- In addition to welcoming external information, we seek information from other departments (Revenue, Hearings, Board of Review) as well as external agencies such as courts and police departments.
- We regularly perform cross-matches against external databases such as the National New Hire Directory and Department of Homeland Security to detect claimants who may be fraudulently collecting.
- The DUA has established a Cross-Agency Task Force to proactively identify additional ways in which our Agency can prevent improper benefit payments and detect fraud.



Seasonal Employment

- “Seasonal employment” (430 Code Mass. Regs. § 12.04) exempts employment in either of the below categories:
 - The entire business will be in operation for less than 16 weeks in a calendar year.
 - The employer has a functionally distinct occupation within the business that is seasonal, and these duties or activities will be performed during a period of less than 16 weeks in a calendar year due to the climate or nature of the products or services.
- An employer seeking seasonal status must submit a written application to DUA **at least 60 days** prior to the beginning of the season. The employment can only be considered “certified seasonal” after the determination is made.
- DUA must make a separate determination for each distinct seasonal period.



Seasonal Employment

- If you receive seasonal certification, you must do the following to maintain your exemption:
 - Display notices of your seasonal status in multiple places for inspection by your employees. DUA will provide these notices within your seasonal determination packet (Form 1875).
 - Notify all seasonal employees in writing prior to their hire or immediately following the seasonal determination. This form (1876) is also provided by DUA in your packet.
 - If you receive a request for wage and separation information (Form 1062) for a certified seasonal period, you must indicate that the wages you paid were based on seasonal certified employment.
- Additional Items to Consider:
 - If you transfer an employee from seasonal to non-seasonal or non-seasonal to seasonal without break or intermission, the claimant's benefits will be based on all wages paid by you.
 - Seasonal certifications do **not** relieve an employer from filing quarterly wage and employment detail. Contributory employers must still pay quarterly contributions on seasonal wages.



Employer Responsibilities: Respond Timely to Wage and Separation Information

- When a claimant files an unemployment claim, all employers within the last 15 months will receive a request for wage and separation information (Form 1062) mailed to the address of record.
- For the employer to maintain its rights as an interested party to the claim, this form must be returned postmarked within 10 days of the mail date on the form.
- This form verifies or provides wage information and enables the employer to state the reason for separation.
- In many cases, this information will trigger the creation of an issue or an additional investigation.
- In cases where a claimant has separated from a job during his/her benefit year, we will send a wage and separation request (Form 1074) to the separating employer.
 - Because a claimant can earn wages while collecting unemployment benefits, it is important for employers to complete this information to protect your rights, even if you are currently paying wages to the claimant.



Employer Responsibilities: Respond Timely to Fact Finding Requests

- When the DUA is investigating a separation or other eligibility issue, we will ask you to participate in the process by providing an official statement.
- It is critical that you respond to this request for information timely so that you have an opportunity to present your information to the DUA.
- If you do not provide information timely, the DUA must make a decision based upon the information provided by the claimant.
- The claimant has the same responsibilities to respond to the DUA.

Employer Responsibilities: Review Monthly Charge Statements



- You will receive a statement for each month that benefits are charged to your account.
- This statement will list each claimant and the total charges per claimant, per week, for that specific month.
- You have the right to request a review of charges that you believe to be inaccurate within **30 days** of the mail date of the statement.
- In order to preserve the right to potential charge relief, the employer must have returned Form 1062 timely, with requested wage information.



Employer Responsibilities: Submit Employment and Wage Detail

- Every employer is required by law to report quarterly employment and wage detail information to the DUA (G. L.c. 151A, § 14P)
- These reports are used to verify wage information for claims and process claims in a timely manner
- The claimant's WBA is based on the wages earned in the base period. The quarterly reporting of wages is how the DUA has the information to calculate this amount.



Employer Responsibilities: Report Fraud

- We welcome information from concerned individuals and employers who have credible information about suspected fraud.
- You can report cases of suspected fraud through one of the following methods:
 - Calling the Fraud Hotline at 800-354-9927
 - Emailing at uifraud@detma.org
 - Writing to the U.I. Program Integrity Department, P.O. Box 8610, Boston, MA 02114
 - Faxing information to 617-723-5312
- All fraud claims are investigated; however not every case will result in a fraud determination.
- Investigation outcomes can only be reported to interested parties because of the confidentiality of claims.

Employer Responsibilities: Participate in Hearings Process



- It is critical that employers participate in the hearings process. Hearings are “de novo”, which means that either party may present new evidence.
- A hearing is the employer’s opportunity to provide key information and rebut the claimant’s testimony and evidence.
- In order to participate in the hearing, the employer must have preserved its rights by timely returning Form 1062 or Form 1074 with a protesting separation reason selected.



Employer Responsibilities: Oversight of Third Party Administrators

- Third Party Administrators (TPAs) provide valuable services to employers by assisting them with employment and wage detail reports as well as management of UI claims.
- While TPAs provide these services on behalf of employers, the employer retains ultimate responsibility for the timeliness of requests and the quality of wage and separation information.
- Employers must actively manage the TPAs to ensure that information requests are returned timely and sufficient information is provided to the DUA in order to avoid inaccurate charges and retain future rights.



Municipal UI Task Force Process

- Governor Patrick convened the Municipal UI Task Force in March 2012. The Task Force was charged with making recommendations that would provide relief to municipalities while maintaining the integrity of the UI Trust Fund.
- The Task force consisted of Mayor Setti Warren (Newton), Mayor Kim Driscoll (Salem), Hon. Raya Dreben, Michael Widemer (MA Taxpayers Assoc.), Paul Toner (MA Teachers Assoc.), Jennifer Springer (MA AFL-CIO), Senator Daniel Wolf, Representative Torrisi, and was chaired by Secretary Goldstein.
- The Task Force met in person 5 times beginning in the spring of 2012 and engaged in multiple additional discussions as the report was being finalized.
- The Municipal UI Task Force Report was published on November 15, 2012.



Municipal Reform Steps Taken By DUA

- Established a Municipal UI Unit and hotline (617-626-6262)
- Responded to all 109 municipalities who sent requests for clarification on UI policies or specific claimants.
- Proposed legislation that would allow DUA to participate in a US Treasury Offset Program and collect improperly paid UI benefits
- Provided additional training to DUA Adjudicators and Review Examiners (specifically incorporating a unit on municipal issues)
- Issued a Guidance Letter on On-Call Firefighters and EMTs
- Revised policies regarding on-call employees, substitute teachers, seasonal employees, and reasonable assurance
- Continuing review of DUA forms
- Continued outreach to municipalities (workshop attendance, conducted seminars, annual communication regarding reasonable assurance.)
- Established 2 annual webinars on seasonal certification. The first one will be held February 28, 2013 at 9:00 AM, 11:00 AM, and 2:00 PM.



Recommendations to Municipalities

- Create an systematic approach for managing UI costs. For example, designate one municipal official to manage UI claims for school and municipal departments.
- Respond timely to every request made by DUA.
- If using a TPA, make sure the TPA is accountable and that oversight is provided by a town official.
- Review Benefit Charge statements monthly.
- Report to DUA all information available that will enable the Agency to better respond to claims (i.e. when employees refused work).
- Participate in educational workshops and webinars.
- Be prepared with the proper information and bring knowledgeable witnesses at all hearings.
- Report to DUA all suspected fraud, reemployment and other factors that impact employee eligibility.



Municipal UI Reform Legislation

- Municipal UI Reform Legislation was filed by Governor Patrick on January 9, 2013.
- This legislation includes the following provisions:
 - creates a 65% unemployment insurance (UI) offset to retirees collecting a defined benefit pension, thereby significantly limiting a returning retiree's access to unemployment when laid off and collecting a pension;
 - eliminates the disparity between those employed directly by a school department and those providing services to the school but paid directly by the municipality;
 - prevents municipalities from being charged for wages earned by election workers; and
 - allows DUA to participate in a federal program so that the agency can intercept the federal tax returns of anyone who owes DUA funds as a result of an overpayment.