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Unemployment Insurance Benefit Charging Process Explained

The Arkansas Department of Workforce Services receives many inquiries concerning the benefit charging process. This newsletter has been created to provide employers with important information regarding this process. Within these pages you will find answers to the questions employers most frequentl ask. We hope you will find this publication helpful.

Arkansas employers fund the payment of unemployment insurance benefits in two ways.

First, governmental employing units and nonprofit organizations may opt to simply reimburse the dollar amount of benefits attributed to their account each quarter. All other employers pay a tax on the first $10,000 of each employee's wages. New employers pay the tax at the new employer rate — currently 3.7 percent.

After being at the new employer rate for approximately three years, an employer's rate is then calculated by dividing the difference between taxes paid and **benefits charged** by the annual taxable payroll. Currently, rates range from 0.9 percent to 10.8 percent.

While employers may reduce the rate by making a voluntary payment in addition to the tax owed, the best way to help keep the rate low is to ensure that benefits are **noncharged** whenever possible.

Reimbursable employers are not eligible for benefit noncharging, so the remainder of this article is geared toward tax-rated employers. However, reimbursable employers should still respond to all ADWS notices as discussed later. Failure to provide the information requested on the notices could result in a claimant being paid benefits who otherwise would not have been paid had the reimbursable employer responded to the notice.

Only the **base period employers** used to establish a claim have the **potential** to be charged if benefits ar paid. You will know that you are a base period employer in one of two ways: either by receipt of a Notice to Last Employer or a Notice to Base Period Employer. (See Q8 on Page 3.)

If you receive a Notice to Last Employer listing potential charge amounts, then you are also a base period employer. In most instances if there are no potential charge amounts listed on the Notice to Last Employer, then you are not also a base period employer, and your account will not be subject to charges.

Nonetheless, it is still important to respond to the Notice to Last Employer because a last employer who is not also a base period employer may become a base period employer should the claimant file another claim in a succeeding benefit year.

Likewise, you may receive a Notice to Base Period Employer that does not list potential charge amounts. Again, always be sure to respond because when potential charge amounts are not listed, the wage credits have been transferred to another state. If the other state pays the claimant unemployment insurance benefits, then your account has the potential to be charged.

To be eligible for noncharging employers must respond to ADWS' notices in a timely fashion.

ADWS Regulation 15 requires that the Notice to Last Employer be returned/postmarked within seven calendar days from the mailing date and the Notice to Base Period Employer within 15 calendar days from the mailing date.

The rapid turnaround is necessitated by U.S. Department of Labor performance standards. If you are unable to respond in a timely fashion **due to circumstances beyond your control**, note this on your response and request that the response be considered timely. Be sure to explain what the circumstances were that prohibited you from responding in a timely fashion.

ADWS is currently working on a project that will offer employers the option of receiving and returning these notices via the Internet.

Returning the notices in a timely fashion is just the first step in getting a noncharge. ADWS must then consider the reason provided by you for the claimant's separation in order to determine whether your account is noncharged.

If it is found that the claimant was separated because he **quit without good cause** connected to the work or was **discharged for misconduct** in connection with the work, then the account will be noncharged provide the response was timely.

It is also possible to receive a noncharge if the claimant continues to work for an employer without a reduction in hours, as long as the claimant is not employed on an "on-call" or "as needed" basis. All other reasons result in a charge to the account.

As the amount of charges i unknown, ADWS does not make a formal written charge determination upon the receipt of the returned Notice to Last or Base Period Employer. Rather, employers are notified after the end of each quarter if charges have accrued.

If there are charges, you will receive

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the Quarterly Statement of Benefits Charged to Your Account. If no charges accrued during the quarter, then a quarterly charge statement is not mailed.

If an employer disagrees with any first-time charges on a quarterly statement, the charges may be protested. **It is extremely important to note that charges can only be protested the *first time* that they appear on a charge statement. First time charges are designated by an asterisk. Subsequent charges appearing on a quarterly charge statement from the same benefit year claim *cannot* be protested.**

To lodge a protest of first-time charges, you must write a letter of protest and mail it to ADWS, P.O. Box 8011, Little Rock, AR 72203-8011. Charge protests must be postmarked within 30 calendar days from the mailing date of the statement.

In your protest letter be sure to provide information that can be used to determine that you responded to the notices in a timely fashion and that the account is entitled to one of the noncharge provisions — claimant quit without good cause, was discharged for misconduct, or is still working other than on an "on-call" or "as needed" basis with no reduction in hours.

Attach a copy of the charge statement with the protested charges highlighted, or identify the charges you are protesting in your letter.

After your protest is reviewed, you will receive a Notice of Agency Decision on Request for Review and Redetermination of Quarterly Statement. If you disagree with the disposition of the charges in this notice, an appeal must be made to the Circuit Court in the county of your business' residence or to the Pulaski County Circuit Court. All such appeals must be filed within 20 calendar days from the mailing date of the notice.

Most courts require a filing fee and that the documents be physically received by the court, **not postmarked**, within the 20 calendar day period.

We hope we have answered many of your questions concerning the benefit charging process. Should you have additional questions, please phone the ADWS Customer Support Center at 501-683-2760 or email us at aesd.ui.support@arkansas.gov.

FAQs: Unemployment Insurance Benefit Charging Process

Q1: Why did I still get charged if I returned my notice on time?

A1: Returning a timely response is the first step in securing a noncharge. The second step is providing specific facts regarding the reason the claimant was separated. If the facts you provide establish that the claimant was (1) discharged for misconduct connected to the work, (2) quit without good cause connected to the work, or (3) that the claimant is still working without a reduction in hours and not on an "as needed basis," then your account will be noncharged provided your response is returned timely. You must state specific facts. Do not just say "misconduct" or "quit without good cause."

Q2: The Notice to Last Employer response must be postmarked within seven days of the mailing date and the Notice to Base Period Employer response postmarked within 15 days of the mailing date. Why do these forms have to be returned so quickly?

A2: The U.S. Department of Labor requires ADWS to adhere to certain performance standards. To meet these USDOL standards, the forms must be returned/postmarked within the seven and 15 day time frames.

Q3: I did not get my notice until after the time frame for returning it. What should I do?

A3: Please go ahead and send your response as soon as you can. ADWS Regulation 15 provides that an untimely response can be considered timely if the delay was for circumstances beyond your control. On your response, note why you could not respond timely, and request that your response be considered timely.

Q4: I have received a Notice to Last Employer. I know the claimant has worked for several different employers, so will my account be charged for all the benefits paid?

A4: Only base period employers are subject to being charged. Therefore a last employer is not subject to being charged unless it is also a base period employer. If the Notice to Last Employer lists potential charges, then you are also a base period employer. Additionally, ACA § 11-10-703(a)(2) provides that all employers in the claimant's base period will be subject to being charged in the proportion of wages paid by each employer to total wages paid in the base period. Consequently, if you are a last and base period employer, your account has the potential to be charged for its pro rata share of benefits.

Q5: Sometimes I get the Notice to Last Employer and then get a questionnaire. Why does ADWS need the additional information?

A5: The Notice to Last Employer only provides limited information and is sufficient when the claimant has been laid off. However, if the claimant quit, was discharged or suspended, then there is the possibility that the claimant might be disquali-

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fied. The questionnaires help ADWS gather the information needed to adjudicate the separation issue. Also, there are other eligibility requirements that may require additional information from the employer. While the questionnaires have been designed to get as much information as possible, it is sometimes necessary to call parties to get additional information. Your cooperation in this fact gathering process is much appreciated. ADWS is currently developing technology that will allow employers to receive and respond to the notices and questionnaires via the Internet. We hope this technology will make responding to the notices and questionnaires much easier for our employers.

Q6: Why am I being charged for benefits that were paid to an employee who still works for me part time? I have always employed this individual on a part-time basis. He does not have a set schedule but comes in when there is enough extra work for him to do.

A6: ACA §11-10-703(a)(4) provides that an employer's account will not be charged when benefits are paid to an individual who continues to work for an employer as long as there has been no reduction in hours/wages and the individual is not employed on an "on-call" or "as needed" basis. Since your employee works on an "as needed" basis, your account is not eligible to be noncharged for benefits paid to this claimant.

Q7: I am being charged for benefits that were paid to a claimant who I know is working part time for another employer. How can someone be unemployed if they are working part time?

A7: ACA §11-10-503 provides for the payment of partial unemployment benefits. Individuals who are working may draw partial benefits if they do not work 40 or more hours per week and their wages do not exceed 140 percent of the weekly benefit amount.

Q8: I just received a Notice to Base Period Employer. The individual listed on it has not worked for me for over a year. Why am I getting this notice?

A8: A claimant's base period consists of the first four of the last five completed quarters excluding the quarter in which the claim is filed. For example, if a claimant files on May 1, 2006, (06/2 quarter), you would skip the 06/2 quarter, and then go back five quarters to 05/1. Starting with 05/1, you would count forward four quarters, so the base period would be for the four quarters of 05/1, 05/2, 05/3 and 05/4. If the claimant last worked for you in 05/1, you would still be a base period employer even though it might have been 16 months since the claimant last worked for you.

Q9: A former employee filed a claim, and I was both a last and base period employer. My account was charged because I had laid off the claimant. Now the claimant has filed another claim, and I am a base period employer. Will my account be charged again?

A9: The reason for the separation has not changed, so your account will be charged its pro rata share of the total wages in the base period.

Q10: A salaried employee was terminated from my firm. I thought salaried employees were not eligible for unemployment insurance benefits. Why are there charges on my quarterly charge statement?

A10: While some types of employment are exempt under ACA §11-10-210, the manner in which an employee is paid, hourly or salaried, does not dictate whether an individual will be able to establish a claim and draw benefits.

Q11: A year or so ago I hired someone with the understanding that the job would only be for 60 days. My account has been charged for benefits paid. Why?

A11: Even though this may be considered temporary work, we still must look at the reason why the claimant is no longer working to determine if your account can be noncharged. Since the claimant was not discharged for misconduct and did not quit without good cause, you are not entitled to a noncharge.

Q12: I bought a business and am getting charged for benefits from the former employer's employees. Why is my account being charged?

A12: ACA §11-10-710(a) and (b) provides that when a business is purchased, the purchasing employer assumes the position of the selling employer with regard to, among other things, liability for charges that would have accrued to the selling employer's account had it remained in business.

Q13: I own a temporary help firm. Many of our assignments provide that the employee will work for the client for six weeks then become a permanent employee of the client. If the individual becomes unemployed after becoming a permanent employee of our client, our account is still charged for its pro rata share of the benefits in the base period. Why?

A13: ADWS does not view this arrangement as a separation that would entitle a temporary help firm to a noncharge. The claimant did not quit nor was the claimant discharged; rather there was just a payroll transfer.

Q14: I am a reimbursable employer. We answered the notices, and the claimant was disqualified;

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however, there are benefits paid reflected on our quarterly statement. Why?

A14: Claimants may satisfy disqualifications usually either by working or claiming benefits and in some instances a combination of the two. Once the disqualification is satisfied, the claimant may draw benefits if otherwise eligible. ACA §11-10-713 provides that reimbursable employers pay dollar for dollar for all benefits paid based on wages paid by the reimbursable employer. Once the claimant starts drawing, the reimbursable employer must pay an amount equal to the benefits paid each quarter.

Q15: I am a reimbursable employer. The claimant was initially awarded benefits but was disqualified on appeal to the Arkansas Appeal Tribunal. The quarterly statement shows charges for this claimant. Why?

A15: As in the question immediately above, the claimant drew benefits, so the reimbursable employer must pay the fund in an equal amount. However, once an overpayment is established and collected, a reimbursable employer will get a credit in the quarter in which the overpayment is collected in full.

Q16: Why do we have to wait until the end of the quarter to protest? Why doesn't ADWS send employers something after receiving the notice responses?

A16: While ADWS can tell whether you have earned the right to a non-charge based on the timing and information contained on the notices, it cannot tell if the claimant will actually receive benefits at the time the notice is returned. It also cannot tell the total amount that is paid during the quarter. It would be unproductive to offer a chance to protest if benefits are never paid.

Q17: I do not get a quarterly charge statement every quarter. Why not?

A17: ADWS only sends quarterly charge statements if benefits accrue to your account.

Q18: There are asterisks next to several of the charges on my charge statement. What do those mean?

A18: An asterisk means that the charges are appearing on a quarterly statement for the first time for that claim. ACA §11-10-707(b)(1) provides that an employer may only protest the decision to charge the first time that charges for a claim appear on a quarterly charge statement. Charges for the same benefit year claim appearing on a subsequent quarterly statement may not be protested. Always be sure to carefully review any charges that are designated by an asterisk.

Q19: Sometimes there are SSNs on the quarterly charge statement without a name. Why is there no name?

A19: All states participate in the Combined Wage Claim Program. This program allows claimants with wages from two or more states to combine all wages in one state to establish a claim. When a claimant opts to file a combined wage claim, wages must be transferred to the state in which the claimant files the claim. This state is known as the paying state. In most instances when ADWS is notified by a paying state that the claimant received benefits, only a SSN is sent — no name. Combined wage claim charges can also be identified on the quarterly statement by the letters CWC.

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DWS
Department of WORKFORCEServices

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P.O. Box 2981

Little Rock, AR 72203

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