



UST Newsletter

Save Money. Build Assets.

Vol. 1, Issue 1 Summer 2010

ROUTING SLIP:

- Executive Director
- Finance
- Human Resources
- Payroll

RETURN TO:
UST Admin Manual

Unemployment Eligibility: When Should You Appeal?

If you disagree with a decision that a claimant is allowed benefits or that your unemployment account is subject to charges on a particular claim and wish to file an appeal, you must be prepared to present facts and evidence to support your argument that the state's decision to allow benefits is incorrect.

As the appealing party, you bear the responsibility to provide the evidence that supports your position.

This can be done effectively with:

- First-hand witness testimony
- A written resignation
- Warning notices
- An admission by the claimant
- Written policy prohibiting the claimant's actions
- The claimant's acknowledgement of receipt of the policy

Keep in mind that witness statements, even if properly authenticated, are hearsay and may not be sufficient to meet the burden of proof.

Voluntary Resignations (Good Cause)

Good cause is generally defined as "such cause, connected with the work, as would lead a reasonable person who is otherwise interested in remaining employed to nonetheless leave the job." While the burden for showing good cause rests with the claimant, you must be prepared to offer an argument that good cause did not exist or evidence that the reason the claimant gave for quitting is not factually correct. Following are some common issues that make winning quit cases more difficult:

- No documentation regarding the reason the claimant left employment

- An employer significantly changed the claimant's work hours, pay, or job duties
- An employer took no action to investigate employee complaints of unsafe work conditions or harassment
- An employer gave an employee the choice of resigning or being discharged

Discharges (Misconduct)

Misconduct has been defined as a "willful, substantial breach of a material duty owed the employer which tends to damage the employer's interests." For purposes of unemployment eligibility, this means that a single instance of most policy violations will not be considered misconduct, but rather repeated violations of the same rule or policy after being warned. Claimants who are discharged for poor job performance are rarely denied benefits unless you can prove the claimant was able to do the job to your satisfaction and did not. Following are some common issues that result in employers losing discharge cases:

- No final warning
- Not following stated company discipline policy
- No documentation of past policy violations
- Not taking disciplinary action within a reasonable time after the policy violation
- Discharge for an accumulation of incidents as opposed to for a specific final incident

Deciding to Appeal

If after discussion with your TALX claim representative you disagree with the eligibility decision and you have documentation and testimony to support your argument, a formal appeal and request for hearing can be filed. Understanding when to file an appeal will help to conserve your organization's time and resources while achieving the best possible results.

Over please.



An Effective Written Warning

Warnings are an aspect of progressive discipline that effectively ensure an employee understands what is expected of him or her. State unemployment agencies look for warnings, in most instances, to determine if the claimant was discharged for misconduct—a deliberate or willful violation of company rules.

Elements of a Good Written Warning

1. **The Violation:** Provide a detailed synopsis of the event which occurred including all facts, dates/times and witnesses. Clearly state what the observed behavior was and why it was unacceptable.
2. **Expected Action or How to Improve.** State or reaffirm what the expected behavior or standard is and what changes are expected.
3. **The Consequences.** Inform the worker what the consequences will be if the standard is not consistently adhered to. For example, state “further violations will result in more severe discipline, which may include discharge.” Include expected time period to rectify (e.g., 30 days to improve) and consequences and next steps should there be no improvement.
4. **Employee’s Action Plan and Comments**
5. **Signature of Employee:** Ensure the employee acknowledges having received the warning (signs and dates).
6. **Signature of Witness:** Whenever possible, involve a witness so two people will be able to testify with firsthand knowledge regarding the counseling session should an unemployment hearing arise.
7. **Signature of Issuer**

Taxable Wage Submission

Don't forget, submitting your reported SUI taxable wages helps us to ensure that you are being rated and billed properly. Wages for first quarter 2010 can be submitted via our website now. Second quarter submission will be available beginning July 10th. Go to www.chooseust.org and log in using your username (The Customer ID listed on your invoice) and your password (your primary address zip code) and select the "Taxable Wages" tab. Enter the summary total SUI or SUTA taxable wages for the quarter and click "Save". It's that easy!

TALX West Coast Update

In order to better serve members in **Alaska, California, Hawaii, Nevada, Oregon, and Washington**, TALX has moved claims and hearing management services for these states to the Las Vegas, NV office effective June 14th. With the location change, Claims and Hearing assistance will be available from 8:00 AM to 4:30 PM (PST). Following are the contacts for these states.

Claims Contact:

Aprildawn Duerbusch, (UIC)
800-350-4341 #7893
aduerbusch@talx.com

Hearings Contact:

Debbie Williams (UHC)
800-366-6660 #2165
debbie.williams@talx.com

Assistant Manager – Claims Services:

Trisha Milton
(314) 214-7883 or (800) 350-4341 ext: 7883
trisha.milton@talx.com