

# **EMPLOYER'S GUIDE TO UIA TAX FILINGS & RESPONDING TO CLAIMS**

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## I. **EMPLOYEE ELIGIBILITY & DISQUALIFICATION CRITERIA**

### A. Eligibility Criteria:

1. To be eligible for benefits, Michigan law requires that the unemployment agency must find all of the following:

a. The individual has registered for work, has continued to report in accordance with unemployment agency rules, and is actively engaged in seeking work. MCL 421.28(1)(a). Registering to work means that individual files resume with the Michigan Talent Bank. Reporting is required to the local Michigan Works! Agency service center. Notably, the work search conducted by the individual is subject to random audit by the unemployment agency. MCL 421.28(7). Currently, "actively engaged in seeking work" means that the individual must conduct a systematic and sustained search for work in each week the individual is claiming benefits, using any of the following methods to report the details of the work search:

i. Reporting at monthly intervals on the unemployment agency's online reporting system the name of each employer and physical or online location of each employer where work was sought and the date and method by which work was sought with each employer. MCL 421.28(6)(a).

- ii. Filing a written report with the unemployment agency by mail or facsimile transmission not later than the end of the fourth calendar week after the end of the week in which the individual engaged in the work search, on a form approved by the unemployment agency, indicating the name of each employer and physical or online location of each employer where work was sought and the date and method by which work was sought with each employer. MCL 421.28(6)(b).
  - iii. Appearing at least monthly in person at a Michigan works agency office to report the name and physical or online location of each employer where the individual sought work during the previous month and the date and method by which work was sought with each employer. MCL 421.28(6)(c).
- b. The individual has made a claim for benefits in compliance with legal requirements of section 32 and provided the unemployment agency with his or her social security number. MCL 421.28(1)(b).
- c. The individual is able and available to appear at an unemployment agency location for evaluation of eligibility for benefits, if required, and to perform suitable full-time work of a character which the individual is qualified to perform by past experience or training, which is of a character generally similar to work for which the individual has previously received wages, and for which the individual is available, full time, either at a locality at

which the individual earned wages for insured work during his or her base period or at a locality where it is found by the unemployment agency that such work is available. MCL 421.28(1)(c).

- d. The individual participates in reemployment services, such as job search assistance services, if the individual has been determined or redetermined by the unemployment agency to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the unemployment agency. MCL 421.28(1)(e).

2. Exceptions to eligibility criteria: Individuals do not need to meet all the above requirements upon:

- a. Death of an individual's immediate family member (a spouse, child, stepchild, adopted child, grandchild, parent, grandparent, brother, or sister of the individual or his or her spouse; and the spouse of any of such persons): Under these circumstances, the eligibility requirements of availability and reporting shall be waived for the day of the death and for 4 consecutive calendar days thereafter. MCL 421.28(1)(d).
- b. Temporary layoff not exceeding 45 calendar days: If the employer notifies the unemployment agency (in writing or by computerized data exchange) that the layoff is temporary and that work is expected to be available for the individual within a declared number of days, not to exceed 45 calendar days following the last day the individual worked, the requirements that the individual must report, must register for work, must be available to

perform suitable full-time work, and must seek work may be waived by the unemployment agency. This waiver shall not be effective unless the notification from the employer has been received by the unemployment agency before the individual has completed his or her first compensable week following layoff. If the individual is not recalled within the specified period, the waiver shall cease to be operative with respect to that layoff. MCL 421.28(1)(a). Note: This waiver of seeking work shall not apply to weeks in a claim for extended benefits if section 64(8)(a)(ii) is in effect (interstate claim), unless the individual is participating in approved training. MCL 421.28(4).

- c. Suitable work unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period: Except for a period of disqualification or if claimant is enrolled and attended classes as a full-time student, under these circumstances, the unemployment agency may waive the requirement that the individual seek work. MCL 421.28(1)(a).
- d. Unemployment agency's waiver the requirements of registration and seeking work requirements under MCL 421.28(1)(a): In weeks during which such waivers apply, an individual is considered to have satisfied the requirement of personal reporting at an employment office if the individual has satisfied the personal reporting requirement with respect to a preceding week in that period and the individual has reported with respect to the

week by mail in accordance with the rules promulgated by the unemployment agency. MCL 421.28(1)(a).

- e. Individual's failure during a benefit year to notify or update a chargeable employer with telephone, electronic mail, or other information sufficient to allow the employer to contact the individual about available work: Under these circumstances, the individual will be considered unavailable for work. MCL 421.28(1)(c)(i).
- f. Individual's failure, without good cause, to respond to the unemployment agency within 14 calendar days of the later of the mailing of a notice to the address of record requiring the individual to contact the unemployment agency or of the leaving of a telephone message requesting a return call and providing a return name and telephone number on an automated answering device or with an individual answering the telephone number of record: Under these circumstances, the individual will be considered unavailable for work. MCL 421.28(1)(c)(ii).
- g. Mail sent to the individual's address of record returned as undeliverable and the telephone number of record disconnected or changed or otherwise no longer associated with the individual: Under these circumstances, the individual will be considered unavailable for work. MCL 421.28(1)(c)(iii).
- h. Individual's participation in training approved by unemployment agency: Under these circumstances, an otherwise eligible individual shall not be ineligible because of such participation in the approved training, and for each week of participation on such approved

training and satisfactorily pursuing such approved course, the unemployment agency shall: waive the requirements of being available for work and seeking work under (1)(a) and (c); and find good cause for any failure to apply for suitable work, report to former employer for interview concerning suitable work, or accept suitable work under sections (1)(c), (d), and (e). MCL 421.28(3). However, the unemployment agency may only authorize vocational training to an individual with an unexpired benefit year if: (a) reasonable opportunities for employment in occupations for which the individual is fitted by training and experience do not exist in the locality in which the individual is claiming benefits; (b) the vocational training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities; (c) the training course has been approved by a local advisory council on which both management and labor are represented, or if there is no local advisory council, by the unemployment agency; (d) The individual has the required qualifications and aptitudes to complete the course successfully; (e) The vocational training course has been approved by the state board of education and is maintained by a public or private school or by the unemployment agency. MCL 421.28(2).

- i. Individual's participation in training approved under section 236(a)(1) of the trade act of 1974, or leaving to participate in such training if the work left is not suitable employment: Under these circumstances, an otherwise eligible individual shall not be denied benefits for weeks in such training. MCL 421.28(5). Furthermore, an

otherwise eligible individual shall not be denied benefits because of the application to any such week in training of provisions of this act, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. MCL 421.28(5).

B. Disqualification Criteria

1. An individual is disqualified from receiving benefits under MCL 421.29 if he or she did any of the following:
  - a. Left work voluntarily without good cause attributable to the employer or employing unit. An individual who left work is presumed to have left work voluntarily without good cause attributable to the employer or employing unit. MCL 421.29(1)(a). For example, an individual *shall* be considered to have voluntarily left work without good cause attributable to the employer under the following circumstances:
    - i. Absence from work for a period of 3 consecutive work days or more without contacting the employer in a manner acceptable to the employer and of which the individual was informed at the time of hire;
    - ii. An individual who becomes unemployed as a result of negligently losing a requirement for the job of which he or she was informed at the time of hire.
    - iii. An individual claims to have left work involuntarily for medical reasons, but has not done all of the

following before the leaving: secured a statement from a medical professional that continuing in the individual's current job would be harmful to the individual's physical or mental health; unsuccessfully attempted to secure alternative work with the employer; and unsuccessfully attempted to be placed on a leave of absence with the employer to last until the individual's mental or physical health would no longer be harmed by the current job.

- b. Was suspended or discharged for misconduct connected with the individual's work or for intoxication while at work. MCL 421.29(1)(b).
- c. Failed without good cause to apply diligently for available suitable work after receiving notice from the unemployment agency of the availability of that work or failed to apply for work with employers that could reasonably be expected to have suitable work available. MCL 421.29(1)(c). In determining whether work is "suitable", the unemployment agency shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness and prior training, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. Additionally, the unemployment agency shall consider the individual's experience and prior earnings. MCL 421.29(6). For example:

- i. An unemployed individual who refuses an offer of work, even if determined to be suitable, shall be denied benefits if the pay rate for that work was at least 70% of the gross pay rate received immediately before becoming unemployed. MCL 421.29(6).
- ii. After an individual has received benefits for 50% of the benefit weeks in the individual's benefit year, work shall not be considered unsuitable because it is outside of the individual's training or experience or unsuitable as to pay rate if the pay rate for that work meets or exceeds the minimum wage, is at least the prevailing mean wage for similar work in the locality for the most recent full calendar year for which data are available as published by the department of technology, management, and budget as "wages by job title", by standard metropolitan statistical area, and is 120% or more of the individual's weekly benefit amount. MCL 421.29(6)..
- iii. Work is not suitable if the position offered is vacant due directly to a strike, lockout, or other labor dispute. MCL 421.29(7)(a).
- iv. Work is not suitable if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality. MCL 421.29(7)(b).

- v. Work is not suitable if as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization. MCL 421.29(7)(c).
  
- d. Failed without good cause while unemployed to report to the individual's former employer or employing unit within a reasonable time after that employer or employing unit provided notice of the availability of an interview concerning available suitable work with the former employer or employing unit. MCL 421.29(1)(d).
  
- e. Failed without good cause to accept suitable work offered to the individual or to return to the individual's customary self-employment, if any, when directed by the employment office or the unemployment agency. This direction would occur after an employer responds to a monetary determination by notifying the unemployment agency of the availability of suitable work with the employer. MCL 421.29(1)(e).
  
- f. Lost his or her job due to absence from work resulting from a violation of law for which the individual was convicted and sentenced to jail or prison, unless either the conviction results in a sentence to county jail under conditions of day parole or the conviction was for a traffic violation that resulted in an absence of less than 10 consecutive work days from work. MCL 421.29(1)(f).
  
- g. Is discharged, whether or not the discharge is subsequently reduced to a disciplinary layoff or suspension, for participation in either (i) a strike or other

concerted action in violation of an applicable collective bargaining agreement that results in curtailment of work or restriction of or interference with production or (ii) a wildcat strike or other concerted action not authorized by the individual's recognized bargaining representative. MCL 421.29(1)(g).

- h. Was discharged for an act of assault and battery connected with the individual's work. MCL 421.29(1)(h).
- i. Was discharged for theft connected with the individual's work. MCL 421.29(1)(i).
- j. Was discharged for willful destruction of property connected with the individual's work. MCL 421.29(1)(j).
- k. Committed a theft after receiving notice of a layoff or discharge, but before the effective date of the layoff or discharge, resulting in loss or damage to the employer who would otherwise be chargeable for the benefits, regardless of whether the individual qualified for the benefits before the theft. MCL 421.29(1)(k).
- l. Was employed by a temporary help firm (an employer whose primary business is to provide a client with the temporary services of one or more individuals under contract with the employer, to perform services for a client of that firm if certain statutory conditions are met). MCL 421.29(1)(l).
- m. Was discharged for illegally ingesting, injecting, inhaling, or possessing a controlled substance on the premises of the employer; refusing to submit to a drug test that was required to be administered in a nondiscriminatory

manner; or testing positive on a drug test, if the test was administered in a nondiscriminatory manner. If the worker disputes the result of the testing, and if a generally accepted confirmatory test has not been administered on the same sample previously tested, then a generally accepted confirmatory test shall be administered on that sample. If the confirmatory test also indicates a positive result for the presence of a controlled substance, the worker who is discharged as a result of the test result will be disqualified under this subdivision. A report by a drug testing facility showing a positive result for the presence of a controlled substance is conclusive unless there is substantial evidence to the contrary. MCL 421.29(1)(m).

- n. Theft from the employer that resulted in the employee's conviction, within 2 years of the date of the discharge, of theft or a lesser included offense. MCL 421.29(1)(n).
- o. Direct involvement in an active labor dispute (included a related shutdown or start-up operation caused by the labor dispute) at the last place of employment, which causes the total or partial unemployment. MCL 421.29(8)(a, c, d).
- p. Receipt or seeking unemployment benefits under an unemployment compensation law of another state or of the United States, such that the individual will be disqualified in any week or part of a week in which the individual has received, is receiving, or is seeking such payments. If the appropriate agency of the other state or of the United States finally determines that the individual

is not entitled to unemployment benefits, the disqualification described in this subsection does not apply. MCL 421.29(10).

2. The following exceptions apply, such that the following conditions do not disqualify an individual under MCL 421.29 and benefits paid in any of these circumstances shall not be charged to the experience account of the employer the individual left, but shall be charged instead to the nonchargeable benefits account (pooled reserves of all employers, used to pay benefits not charged directly against any particular employer's account).
  - a. The individual has an established benefit year in effect and during that benefit year leaves unsuitable work within 60 days after the beginning of that work. MCL 421.29(1)(a)(i).
  - b. The individual is the spouse of a full-time member of the United States armed forces, and the leaving is due to the military duty reassignment of that member of the United States armed forces to a different geographic location. MCL 421.29(1)(a)(ii).
  - c. The individual is concurrently working part-time for an employer or employing unit and for another employer or employing unit and voluntarily leaves the part-time work while continuing work with the other employer. MCL 421.29(1)(a)(iii).
3. If disqualified from benefits, the individual shall not receive benefits starting from the week in which the act or discharge that caused the disqualification occurred. MCL 421.29(2). The disqualified individual shall remain disqualified until the

individual either completes the required number of requalifying weeks or earns a certain amount. A “requalifying week” is a week in which the individual either (i) earns or receives remuneration in an amount equal to at least 1/13 of the minimum amount needed in a calendar quarter of the base period for an individual to qualify for benefits, rounded down to the nearest whole dollar or (ii) otherwise meets all of the requirements to receive a benefit payment if the individual was not disqualified under subsection (1). MCL 421.29(3)(d). The disqualified individual must complete the following to requalify:

- a. If disqualified under subsection (1)(a): Earn at least 12 times the individual’s weekly benefit rate for employment with an employer liable for providing benefits under the unemployment compensation law of Michigan or another state. MCL 421.29(3)(f).
- b. If disqualified under subsection (1)(b): Earn at least 17 times the individual’s weekly benefit rate for employment with an employer liable for providing benefits under the unemployment compensation law of Michigan or another state. MCL 421.29(3)(g).
- c. If disqualified under subsection (1)(c), (d), (e), (f), (g), or (l): Complete 13 requalifying weeks after the disqualifying act. MCL 421.29(3)(d).
- d. If disqualified under subsection (1)(h), (i), (j), (k), (m), or (n): Complete 26 requalifying weeks after the disqualifying act. MCL 421.29(3)(d).

## II. HOW TO PROTEST CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS: HEARING & APPEAL PROCESS

### A. Overview of process:

1. Filing Claim: Employees can file a claim for unemployment by telephone or on the internet. An individual filing a new claim for benefits who reports the reason for separation from a base period employer as a voluntary leaving shall be presumed to have voluntarily left without good cause attributable to the employer and shall be disqualified unless the individual provides substantial evidence to rebut the presumption. MCL 421.29(3)(h). If deemed eligible and not disqualified, employees will need to regularly report to certify continued eligibility for benefits.
2. Monetary Determination: After a claim is filed, the unemployment agency sends a Monetary Determination to the employee and any related employer. This document shows whether the employee qualifies based on monetary requirements, the reported reason for separation, the weekly amount of benefits, and the number of weeks over which benefits may be paid. Maximum is \$324 per week for 20 weeks. This determination also includes a request that the employer identify any amounts paid to the claimant after the benefit year beginning date (e.g., earnings, holiday, vacation, severance, sick, lost earnings, commission, pension).
3. Employee Information Packet: The unemployment agency sends the employee a package describing benefit rights and responsibilities.
4. Employer Protest: Employers have 10 days from issuance of the Monetary Determination to submit a protest based on

termination or 30 days from issuance of this determination to submit a protest based on voluntary resignation.

5. Request for Information Relative to Possible Ineligibility or Disqualification: The unemployment agency sends an additional form requesting specific details about disqualification or ineligibility, either upon its own review of the claim or after review of the employer's protest. The responding party has 10 days to provide additional information.
6. Notice of Determination: A separate notice is issued on each potential issue of disqualification or ineligibility. A party may protest or appeal the determination within 30 days.
7. Notice to Chargeable Employer of Claim Renewal: An employer is advised through this filing that an individual has renewed a claim for benefits and has unused benefit entitlement on a claim including wages with the employer.
8. Notice to Employer of Claim Renewal: An employer is advised through this filing that an individual has renewed a claim for benefits and benefits may be charged to the employer account.
9. Protest: Explain factual and legal basis for protest, with related documents enclosed. If the employer submits its protest to the unemployment agency beyond the time limits prescribed, and the unemployment agency concludes that benefits should not have been paid, the claimant shall repay, without interest, the benefits paid during the entire period of ineligibility or disqualification. MCL 421.29(9).
10. Notice of Redetermination: A separate notice is issued on each potential issue of disqualification or ineligibility. The parties may appeal the redetermination made by the Unemployment Insurance Agency by filing an appeal to the Michigan

Administrative Hearings System within 30 days from issuance of the Redetermination.

11. Appeal: Explain factual and legal basis for appeal, with related documents enclosed.
12. Appearance: Legal counsel for either party should file an appearance with the Michigan Administrative Hearings System.
13. Request for Media File: The Michigan Administrative Hearings System will provide you with a full copy of the file provided to them upon appeal.
14. Notice of Telephone Hearing: This notice will state the date, time, call in phone number, and administrative law judge (“ALJ”) who will preside over the hearing. Hearings are conducted by telephone. This notice will also identify the specific issue to be addressed at the hearing.
15. Request for Adjournment of Telephone Hearing: To request an adjournment, a party must submit a fax to the ALJ, identifying the date and time of the scheduled hearing, the appeal number, and the reason for requesting the adjournment. If granted, a new Notice of Telephone Hearing will be issued with the new date.
16. Exhibits and Witnesses: Parties must submit to the judge and other party “in time to ensure the documents are received before the date of the scheduled hearing” (at least three business days in advance of the hearing), any papers or records that they wish to reference at the hearing and request to be incorporated into the record. Parties may also present witnesses to testify on their behalf, but any witness must have direct knowledge of the issue in dispute.

17. Telephone Hearing: Parties may be represented by counsel or other advocate (e.g., through Advocacy Program) at the hearing. Failure to retain an advocate for the hearing will not entitle the party to an adjournment. The telephone hearing is recorded.
  - a. The hearing begins with the ALJ announcing the case and the parties, entering appearances on the record, and typically stating the procedural history and issues to be addressed at the hearing. Failure to appear may result in an adverse determination against the non-appearing party dismissing the case. Upon request by a party or a party's advocate, the ALJ may grant an opportunity to provide opening statements.
  - b. The party with the burden of proof will present its evidence and witnesses first. For example, an individual claiming benefits under this act has the burden of proof to establish that he or she left work involuntarily or for good cause that was attributable to the employer or employing unit. MCL 421.29(1)(a). The ALJ will recite an oath, whereby the witness swears to tell the truth. On the other hand, if the employer is protesting based on misconduct, the employer must prove that the worker engaged in misconduct and that the misconduct occurred in connection with work. Unless the act was egregious, employers are typically expected to establish the company policy, show that employee was aware of the policy, and explain how the action was harmful to employer.
  - c. To constitute misconduct, the individual's actions must be harmful to the interests of the employer, and must be

done intentionally or in disregard of the employer's interests. Grossly negligent actions also constitute misconduct. It may be enough to have either a single incident of misconduct or gross misconduct (e.g., lying to employer by providing request for bereavement leave and supporting it with false documentation) or series of multiple minor infractions related to work (e.g., consistent tardies without justifiable excuse), but the final incident in a series must show intentional disregard for the employer's interests. An isolated instance of bad judgment or poor performance is not enough for disqualification from benefits. Similarly, actions unrelated to work will not constitute a basis for disqualification.

- d. When referencing exhibits, the party presenting the evidence should confirm that the other party or witness has a copy of the document referenced. The document will not become part of the record, however, until a party moves for the document to be entered into the record. An ALJ may not admit the evidence into the record based on the general rules of evidence, such as hearsay or lack of foundation. The parties may also place objections on the record during the hearing. Sometimes there is an opportunity for closing arguments, but it is not guaranteed.
18. Order: The Order becomes final unless either party (a) files a request for rehearing/reopening based on good cause, (b) files an appeal directly with the Michigan Compensation Appellate Commission (nine commissioners appointed by governor, not part of Unemployment Insurance Agency), or (c) files a direct

appeal, upon stipulation, with the Circuit Court. The deadline for any such action is identified in the order, 30 days after the mailing date.

19. Statement of Unemployment Benefits Charged or Credited to Employer's Account: Employers have 30 days from the mailing date to protest the determination. Notably, the benefit entitlement of an individual disqualified under subsection (1)(a) or (b) is not subject to reduction as a result of that disqualification. MCL 421.29(4)(d). Rather, a benefit payable to the individual disqualified or separated under disqualifying circumstances under subsection (1)(a) or (b), shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the separation. MCL 421.29(3)(h). Moreover, benefits payable to an individual determined by the unemployment agency to be separated under disqualifying circumstances shall not be charged to the account of the employer involved in the disqualification for any period after the employer notifies the unemployment agency of the claimant's possible ineligibility or disqualification. MCL 421.29(3)(h). If a disqualifying act or discharge occurs during the individual's benefit year, any benefits that may become payable to the individual in a later benefit year based on employment with the employer involved in the disqualification shall be charged to the nonchargeable benefits account. MCL 421.29(3)(h).
20. Summary Statement of Unemployment Benefits Charged to Employer's Account: This document includes a note at the bottom of the payments made each quarter on various claims.
21. Restitution: List of overpayments.

### III. ACTION PLAN OF PROTECTIVE MEASURES TO LIMIT LIABILITY

- A. Determine whether company is liable as an employing unit to pay unemployment taxes in Michigan. An employing unit becomes liable when it pays \$1,000 or more in wages for covered employment in a calendar year, when it has employees in 20 different calendar weeks in a calendar year, or when it acquires another existing business, including the employees/personnel/payroll (“organization”), customers/accounts (“trade”), products/services (“business”), or 75% or more of the assets of another organization, trade, or business.
- B. If a liable employing unit, accurately complete the necessary forms to meet your statutory obligations and prevent inadvertent (and certainly do not engage in intentional) SUTA Dumping. SUTA Dumping refers to the process of an employing unit avoiding a history of unemployment benefit charges, resulting in an increased tax rate, when transferring payroll vertically, horizontally, or acquisition with another employer. The following is a list of UIA forms that should be filed, when applicable:
1. Form UIA 518 – Registration for Michigan Taxes: Complete if liable employer. This includes, new business, reinstating an existing account, hiring a new employee, purchasing an existing business, acquiring or transferring part or all of a business, adding a new location, PEO client reporting, or other relevant reason.
  2. UIA Schedule A: Mandatory for all employing units.
  3. UIA Schedule B: Mandatory for all employing units. This is a successorship reporting requirement, but employing units must complete this form, even if no acquisition was made. Also confirm that all disclosures are met in advance of transfer.

4. Form UIA 1710 – Notice to all Employees: Post in a location where it may be easily seen by employees, except that homeowners may inform domestic employees of registration with the UIA.
  5. Form UIA 1028 – Employer’s Quarterly Wage/Tax Report: Submit online through MiWAM if contributing employer or hard copy. The UIA must receive the form by the 25<sup>th</sup> day following the end of the calendar quarter (*i.e.*, first quarter – April 25; second quarter – July 25; third quarter – October 25; and fourth quarter – January 25). If you make an error, file an amended form as soon as possible and pay any resulting additional taxes.
  6. Form UIA 1711 – Unemployment Compensation Notice to Employee: Provide this notice to any worker separated from employment for any reason.
  7. Form UIA 1772 – Discontinuance or Transfer of Payroll Assets in Whole or Part: File this when company is being dissolved, transferred, or when no longer any employees in Michigan.
  8. Form UIA 1763 – Reimbursing Employer Billing for Benefit Charges
  9. Form UIA 1710 – Notice to All Employees
  10. Employer Filed Claim: Required if 1,000 or more of employer’s workers filed new and/or additional claims for unemployment benefits in each of the previous 3 calendar years.
- C. Maintain accurate payroll records for employees, and document legitimate bases for classifications of independent contractors.
- D. Be familiar with additional payments upon which unemployment benefits might similarly be owed or after which benefits might be reduced.

1. Strategically decide structure of severance pay. If goal is to have benefits reduced over time, consider offering pay continuation so that unemployment benefits are reduced in each week that severance payments were made instead of the one week in which a lump sum would be reduced.
- E. If creating a new entity, evaluate the structure that is most cost efficient and effective in meeting company goals. Is goal to have one UIA account for all employees (management company) or to maintain separate UIA accounts for each entity to which it leases employees (PEO)? PEOs are regulated by the Michigan Professional Employer Organization Regulatory Act, which contains a detailed description of what constitutes a PEO. For unemployment purposes, Administrative Rule 190 includes the following definitions:
1. An "Employee leasing company (ELC)," also known as a "professional employer organization," means an independently established business entity that does all of the following: (i) Provides employees to a client entity. (ii) Pays the wages of the employees. (iii) Reports and withholds applicable taxes from the wages of the employees. (iv) Administers the benefits for the employees. (v) Provides other payroll, human resources, and other management assistance services that are agreed upon with its client entity. The employees provided to the client entity may have previously been employed directly by the client entity. The relationship between the client entity and ELC is intended to be long-term or continuing, rather than temporary or intermittent, and the employees are, generally, not subject to reassignment. The majority of the workers at a client entity's worksite, or a majority of workers in a specialized group within that workforce, consists of employees assigned by the leasing company.

2. A captive provider refers to “an employee leasing company which limits itself to providing services and employees to only 1 client entity and the entity's subsidiaries and affiliates and which does not hold itself out as available to provide leasing services to other client entities that do not share an ownership relationship with the employee leasing company.”
  3. A common paymaster is an arrangement under which an employee works for two or more related companies and the payroll for that employee is reported by one of the companies. With common paymasters, the highest unemployment tax rate of the two corporations shall apply.
  4. "Payrolling" is the practice of establishing a related or associated company for the purposes of reassigning the employee payroll functions from 1 business entity to the related business entity, usually to take advantage of the lower unemployment tax rate of the related business entity. Direction and control of the involved employees are not transferred along with the payroll to the related business entity, and the related entity is not an employee leasing company. The related business entity to which the payroll is assigned is not the employer for unemployment insurance tax purposes. The entity for which services are performed and which exercises direction and control over the employee is the employer.
- F. Follow additional requirements if PEO (e.g., notify UIA within 30 days of acquiring a new entity; notify UIA within 30 days of ending a PEO relationship; submit a Quarterly Wage/Tax Report on behalf of each listed client entity).
- G. Monitor actions of employees receiving benefits and report to the UIA any change that would deem another employer liable or the employee ineligible.