

Unemployment 101

Unemployment – Employer Payment Methods

Reimbursing Employers

- Employer pays dollar-for-dollar for all UC benefits paid to employees or former employees
- State sends the employer an invoice every month or quarter (depending on state) for the employer to reimburse the state
- Only non-profit and governmental organizations can fund unemployment this way.

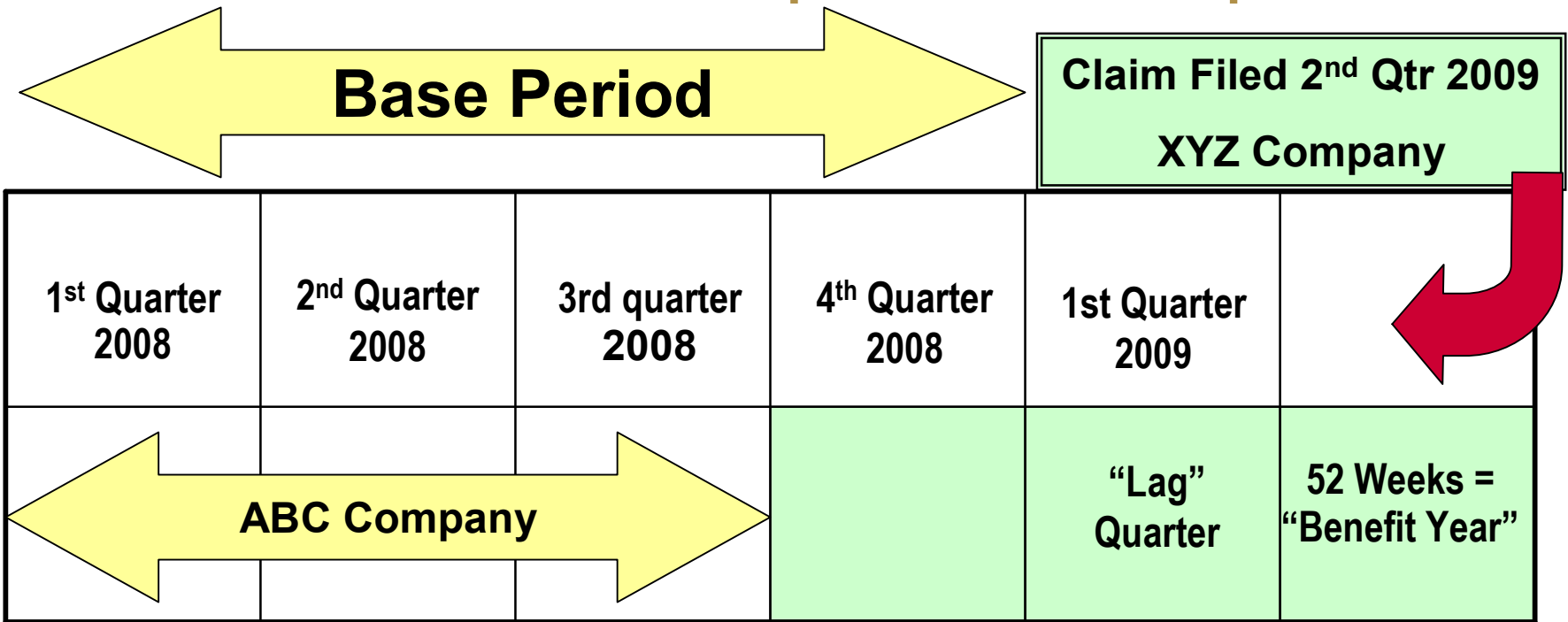
Unemployment – Employer Payment Methods

Merit Rated (or Tax-paying)

- Employer pays a tax based on their prior experience with unemployment
- Taxes are paid on a designated amount of wages for each employee each year
 - This designated wage amount is set by each state and is called the “taxable wage base”

Employer Liability - The “Base Period”

The 1st four of the last five completed Calendar quarters



- This “base period” is used to determine the weekly unemployment amount that the employee may be eligible to receive.
- It is also used to determine which employer(s) might be charged for unemployment benefits as a proportion of the wages paid during this period.

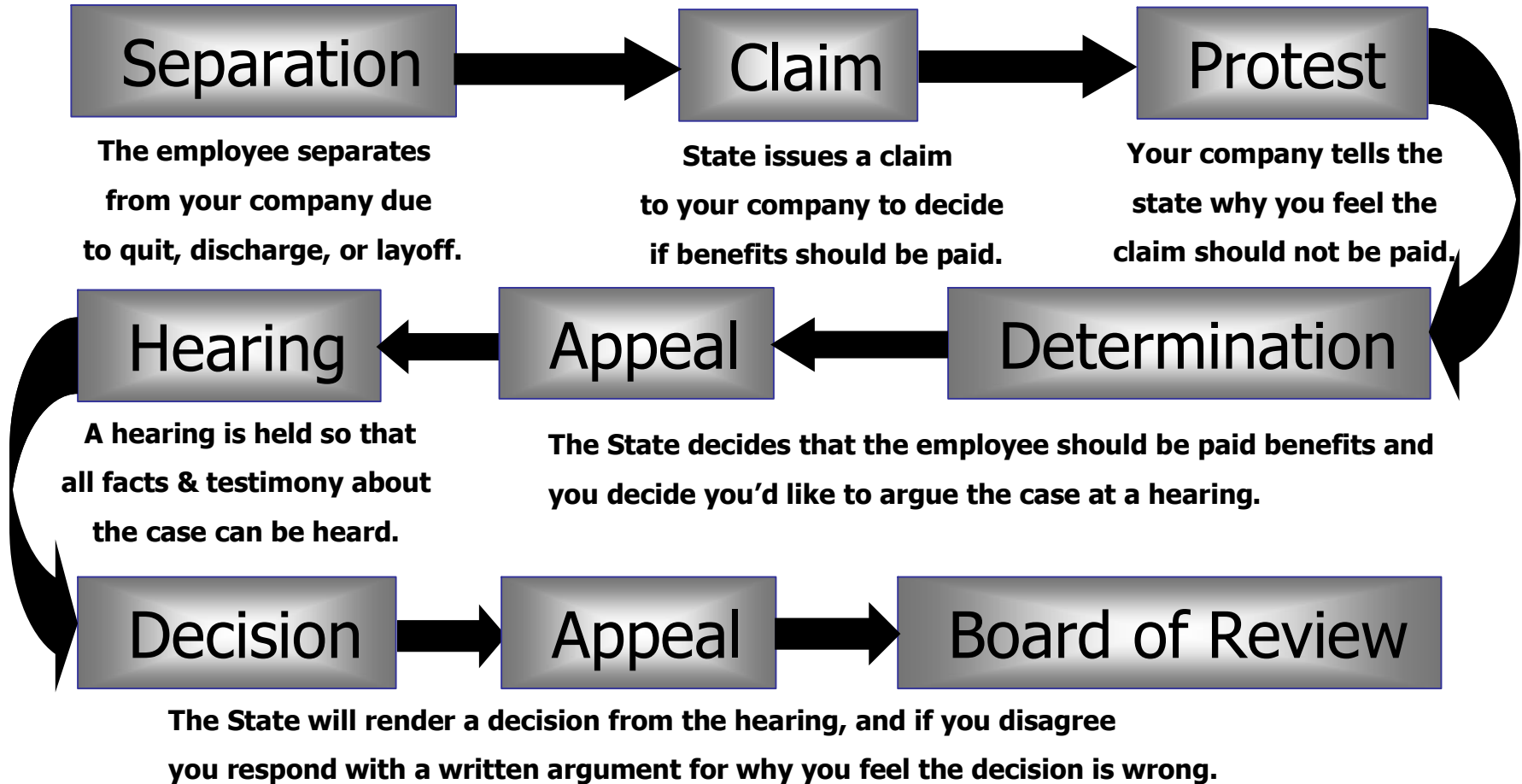
Benefit Charges – A National Overview

- Over \$30 billion were paid out to claimants in 2008.
- Over \$3 billion were paid due to state error and/or claimant fraud.
- Improper charges reduce employer tax account balances and increase employer tax rates.

Most Common State Unemployment Errors

- The employer won their protest against the claim but is still charged for the benefits.
- Employee is earning wages and drawing benefits in the same week.
- The State does not issue credit back to the employer for benefits already paid when the claim is finally is won.
- A hearing decision is reversed after a second level appeal, but the employer is not credited
- Charges levied against incorrect employer – they simply weren't your employee to begin with!

Unemployment Claims Process



Unemployment Taxes – Claims Management

For tax-paying employers, a single claim can result in a higher tax rate.

Next Higher Rate/Bracket

New Claim



The diagram illustrates the impact of a new claim on unemployment tax rates. It features a vertical red arrow pointing upwards. At the top of the arrow is a white box with a black border containing the text 'New Claim'. Below this box is a blue horizontal line. At the bottom of the arrow is a brown box with a black border containing the text 'Current Claims'. Below this box is another blue horizontal line. The text 'Next Higher Rate/Bracket' is positioned above the 'New Claim' box, and 'Current Rate/Bracket' is positioned above the 'Current Claims' box.

Current Rate/Bracket

Current Claims

Unemployment Tax Management

For tax-paying employers, it is extremely important to:

- Verify your annual unemployment tax rates
- Protest incorrect unemployment tax rates assigned
- Ensure employment tax compliance on mergers, acquisitions and reorganizations
- Respond timely to employment tax inquires, audits and assessments

Non-profit Employers - 501(c)(3)'s

Non-profit employers are required to pay for claims in one of two ways:

1. Through paying state unemployment insurance taxes
2. Reimbursing the state for the benefits actually paid out to former employees

NOTE: Since an option exists for non-profit organizations, a review of which method is most beneficial should be completed on a periodic basis.

Other Considerations:

- Passage of the “American Recovery and Reinvestment Act of 2009” expands benefit eligibility to former workers.
- Alternative Base Period to be utilized which will enable more claimants to monetarily qualify for benefits.
- Expands eligibility to part-time employees as well as employees who have quit their job for compelling family reasons.

Winning Claims Before They are Even Filed – What an Employer Needs To Know

Critical Areas for Winning

- Effective Company Policy
- Proper Documentation
- Disciplinary Action



Effective Company Policy

- Policies should be made available to all employees immediately upon hire
- It's a good idea to obtain a signed acknowledgement of the receipt of the policy or company handbook
- When changes are made to any policy, immediately make them available to all associates and obtain another signed acknowledgement
- The policy should not be too vague (open to interpretation internally within your organization and the unemployment office) nor too complicated (rendering it difficult to understand and administer)

Effective Company Policy (continued)



- Follow the policy exactly as it reads or it will not protect you
- Ensure that the policy is uniformly enforced
- A “mixed bag” policy is not generally considered misconduct
- Design policies that adhere to your state’s unemployment laws

Proper Documentation

- All counseling sessions and warnings should be documented in writing – even if only informal or verbal
- The document should be signed and dated by the individual issuing it
- Be sure to issue the document in a timely manner



Warning Documents

- Should provide a detailed summary of what happened
- Should say why the warning is being issued
- Should say what actions or changes are expected of the employee
- Should tell what company policy was violated
- Should explain what the next disciplinary action will be if the behavior isn't corrected
- Should be clear and legible

Document Availability

- Employee files, including all documentation, should be retained on-site in a secure location for at least 18 months for unemployment purposes
- Files need to be readily available for your staff members to ensure a timely response to any claims that are filed



Documentation – Final Thoughts

- As documents are created during the course of employment, keep in mind that many times you will have the burden of proof with the unemployment office
- The scope of your documentation may extend beyond unemployment. Your organization may require it for other legal issues such as a discrimination suit.

Disciplinary Action

- Clearly document, in great detail, the events that led to the disciplinary action and details of the action itself.
- Ensure that the disciplinary action being taken is in accordance with your company policy and/or prior disciplinary actions.
- All disciplinary action should be administered by authorized personnel (owner, manager, Human Resources, etc.).

Disciplinary Action (continued)

- If an investigation was conducted, be sure to clearly note who conducted it
- Take immediate action – do not allow the associate to continue to work.
- Even if the employee refuses to sign a disciplinary action notice, it is still of value – just document their refusal.

Unemployment Hearings – What an Employer Needs To Know

Hearing Notice Received: What Now?

- Read the instructions carefully
- Put it on your calendar
- Review employee documentation
- Identify & prepare any witness(es)
- Request claimant's statement from the State

Preparing Witnesses – Voluntary Quits

Make certain you know the following:

- Was ongoing work still available?
- Was it a verbal or written resignation?
- Did they give a reason?
- Were any other options available besides quitting?
- Did they give notice?
 - Did they work through the notice period?
 - Were they paid through the notice period?

Preparing Witness –Discharges

- Who fired/discharged the employee?
- On what date?
- What reason did they give the employee?
- What was the final incident that caused the discharge (the “last straw”)?
- Did they violate a known policy or procedure?
- Had they done it before and did they receive prior warning(s)?

At the Hearing

- Hearings are always recorded
- All testimony will be under oath
- Only the Hearing Officer asks questions
- Employer usually begins in discharge case
- Claimant usually begins in voluntary quit case
- Parties may respond when asked

After The Hearing

- A decision is usually issued within two weeks
- The decision will contain instructions for further appeal (for both parties).
- Appeal must be a written argument explaining why you disagree with the Hearing Officer's decision.
- The state court system is the only option after a case is argued as far as possible with the state unemployment division.

If you need additional consulting assistance, please click on the Unemployment Consulting link in UC Direct. TALX can assist with individual unemployment cases or help you design your unemployment cost management processes.

