

WHAT DOES A UI “NOTICE OF DETERMINATION” MEAN AND A CHARGING UPDATE FOR

FROM SEPTEMBER 1, 2021



COLORADO
Department of
Labor and Employment

— ADVANCE QUESTIONS —

Resources at:

cdle.colorado.gov/pandemic-unemployment-decisions-notice-of-determination

cdle.colorado.gov/covid-19-pandemic-notice-of-determination

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QUESTION

Employees quitting prior to COVID:

- *What do I do if we received a determination stating the separation occurred due to the pandemic but in fact it was due to a job attached annual/seasonal layoff? Shouldn't we be charged for that since it was not pandemic related at all?*
- *I have received Notice of Determination on past employees who resigned prior to COVID stating they qualify for benefits. I originally responded to the claims stating that the separation was a voluntary quit and understand that our account will not be charged, but then question why I get a Notice of Determination that their claim is approved.*

I have no employees or no one was let go, so why did we get a notice?

- *We have not fired or let any employees go in the past two years. On top of that, the only two Colorado employees are owners, and they are definitely still part of the company. Why would we receive a Notice of Determination?*
- *"I do not have any employees. How can I possibly have a notice of determination?"*
- *Makes no sense. There is no one to file a claim.*
- *I received the Notice of Determination, but when I check my company account online, there is nothing about the claim. How do I know if a claim actually was filed and by whom? If one was filed, it almost certainly is fraudulent because no one in my company should have filed a claim.*
- *Someone back last fall filed a claim under my business (which is now dissolved) that was fraudulent. It has been a nightmare. I did not at any point hire or have any employees. It seems to be affecting my tax return as well. What is determination?*
- *We only have 1 employee and she did not submit a claim so I am curious to see what the letter was about?*

ANSWER

This is likely due to how we examine benefits eligibility and the Base Period we use to look at claims. When a claim is filed, we review wages for a specific four-quarter time period based on the effective date of the claim. Therefore, if a former employee filed a claim in March 2020, employers that they worked for as far back as October 2018 are included on that claim. Please see the PPT slide re: Understanding the Base Period (slide 10).

The above questions likely reflect an instance of fraud due to identity theft. If you have not already, please report this fraud at cdle.colorado.gov/fraud-prevention. This is the best way to get resolution on fraud - please do not appeal the determination.

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QUESTION

I have no employees or no one was let go, so why did we get a notice? (cont'd)

- *I have had no regular employees, full or part time for a period of over five years prior to the pandemic. As, owner of the corporation, I file as an employee but did not myself receive benefits, or file a claim. Can sub contractors who are paid on a 1099 basis file a claim listing my company as an employer? And how can we ensure that an individual has not made a fraudulent claim listing my company as an employer?*
- *We didn't lay off, reduce hours or terminate any employees since the pandemic began so why I am getting a notice?*

Was this a fraudulent claim?

- *I had a fraudulent claim and filled a report but have not heard anything about the status or if anything is being done.*
I recently received a notice of determination which seems to indicate that the claim was approved by your agency after I reported it as a fraudulent claim several months ago. Someone filed a claim using my name and social security number and I reported it as fraudulent claim (twice) after learning about the fraud, nevertheless, it now appears that the claim has been approved. I guess I want to find out how these determinations are being made, and if the fraud is occurring within the CDLE.
- *I received a Notice of Determination, but am concerned fraud is occurring as I am an LLC and it is just myself as the employee, and I never filed for benefits.*
- *We only have 3 employees and none of us filed for unemployment. Is there fraud on our account?*
- *If an individual who has never been an employee of ours files a pandemic claim against our account, will our filing an appeal help you identify that fraudulent claim and recoup the benefits paid?*

ANSWER

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If you have not already, please report this fraud at cdle.colorado.gov/fraud-prevention. This is the best way to get resolution on fraud - please do not appeal the determination. If you have filled out this form, rest assured, we have closed payment on this account and this is in our queue for investigation. As you can imagine, with the overwhelming number of fraud reports, it is taking a bit of time to get through all of these. If you previously reported this fraud but still received a notice of determination, please send an email to employer services at cdle_employer_services@state.co.us.

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QUESTION

Was this a fraudulent claim? (cont'd)

- *What should employers do when a notice of determination for a reported fraudulent claim was filed against them?*

What if some of the notices were for fraudulent claims or for claims that we want to dispute?

We received a Notice of Determination on a fraudulent claim. Fraud forms were filled out by both the employee and we, the

- *employer. This fraudulent claim was made in the owner and president of the company's name. The type of work listed wasn't even for the type of work our company does. We file quarterly and this employee is on every report showing he is still employed. How can a determination in favor of the fraudulent claim be made?*

Employer accounts.

- *I need to know more about how the pandemic unemployment will effect my experience rate.*
- *So on one hand, the main goal is to not have a claim that should not be paid on count against my account. And on that we are successful if we don't appeal. But the second goal could be for the common good to not pay on a claim that should be denied. That goal will not be met if i don't appeal. So that is the conundrum that I would like to find an answer to. Thanks!"*

ANSWER

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For premium-paying employers, this pandemic notice of determination means your account will not be charged. A "non-charging" decision means that benefit payments made to the claimant will NOT be counted against your experience rating and therefore, your unemployment insurance premiums. For reimbursing employers typically nonprofits and government agencies benefits paid on this claim will be charged to your account in accordance with federal pandemic relief efforts. More details are included in the video presentation.

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QUESTION

I feel my ex-employee doesn't deserve benefits:

- *"One of my ex-employees quit her job and then received unemployment that she did not deserve. I appealed and normally my appeal would have been successful. However, the notice of determination had the threatening sounding language that made it seem that you would rather that I not appeal, probably due to the caseload."*
- *We had an employee who filed for unemployment however, our business was considered essential and we continued working as normal. He made a choice to leave our company and has been trying to get unemployment. When he asked for a letter from us we explained to him he has a job and we did not let him go and he cannot file for unemployment, he had family members who told him otherwise.*
- *"I received the Notice of Determination after verifying an employee left voluntarily. If an employee left voluntarily, do they still get to benefit from Unemployment?"*
- *For employees that are playing the system are you going to make them pay it back? For instance when they file taxes and get a refund that what they owe comes out of that?*

Reimbursing Employers

- *Since, as a non-profit, we do not pay UI, are employees still able to claim UI related to COVID? What if they no longer work for this non-profit?"*
- *We have not received notice of determination for employees that were let go for cause or retired all the way back to 2020, yet we have been charged (and paid) on quarterly bills for them (we are reimbursable account). When will we receive a notice of determination and will our account be credited back?*

ANSWER

There are circumstances, under Colorado law, in which an individual can quit their employment and still receive UI benefits. The language on the Notice of determination was not intended to be threatening but, rather, to inform employers that, if appealed, these decisions could result in charging if the claimant was determined to have separated for qualifying reasons. For example, under certain circumstances, one may be entitled to UI benefits if they quit due to their health, to care for an immediate family member, because of domestic abuse or due to unsatisfactory working conditions.

Yes, non profit employees are able to file for unemployment benefits. Notices of determination for reimbursing employers will be sent in the next couple of weeks (as of 9/7/21).

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QUESTION

Misc:

- *If I did not do payroll in all of 2020 and this current year how does this affect me? We did not receive a “Notice of Determination”.*

ANSWER

If you did not receive a notice of determination this does not impact you.

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- *What if the request made against my company was fraudulent? I filed a claim and have heard nothing.*
- *Why am I getting requests to cancel my dispute when the ex employee should get bens?*
- *I received notice that I had filed a claim against my company and had been dismissed so filed for UI. I contested the claim and never heard back.*
- *I received a determination notice, but I never applied for benefits as the employee of my LLC/SCorp or as the employer running my LLC/SCorp). Does this mean someone is fraudulently getting benefits under my name?*
- *I received an email indicating as an employer, I may have received a pandemic claim and can appeal. However when I check my dashboard, there are no claims, issues or appeals or questionnaires to respond to. Was the email just a general, broad email sent to all employers even those that may not have had a claim filed? We didn't lay off or terminate any employees since the onset of the pandemic.*
- *We did a seasonal layoff, unrelated to the pandemic, and are receiving notices stating we won't be charged for these, even though our account should be charged. What do we do?*
- *What if you didn't know about this and you appealed before doing the fraud claim?*
- *We filled out all the fraud forms however we still have charges on our bill for the fraudulent claims....reimbursable account. Will we be credited back for these charges?*
- *In the situation of determination for employees from 2018 and 2019 - normally they would not be eligible for unemployment pay since they left voluntarily. What should we do about that? Should we appeal?*
- *Correction why am I getting notification to retract my dispute when the ex employee shouldn't get bens b/c they were not dismissed they quit. I know its covid related but I already appealed once now I have to do a hearing and I don't know why I have to waste my time b/c she is committing fraud?*
- *Why are “essential businesses” as defined by pandemic definitions rates being increased because of the pandemic when an essential business did not release any employees due to the pandemic? I own a small business that was trying to start up during the pandemic. I was not eligible for ANY PPP funds and still paid all my employees through the pandemic. I released one employee due to the employee's negative actions and that employee claimed unemployment benefits under the pandemic. If my rates are increased next year, it may lead to the closing of my business. Secondly, why do I feel like I am being bullied into not filing an appeal to this release when it is surely the employees actions that lead to the release? This is not ethically correct.*
- *I reported fraud (CDLE, police report, etc.) in January 2021 for a fraudulent claim from December 2020. I recently received a Notice of Determination dated August 2, 2021. I cannot tell if this is related to the fraud from earlier in the year, or do I need to report another case of fraud.*
- *We have a client with over 20 different fraudulent claims this calendar year - we have filed the online fraud form for each. Is there any way to change their account or flag as probable fraud whenever a claim is submitted?*

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- *If I appealed a fraudulent claim, do I need to withdraw that appeal? I did already report it on the fraud website at the same time.*
- *If an employee worked for us for 16 days and walked off the job, why would they be entitled to unemployment?*
- *Why are former employees allowed to file a claim when they didn't earn the minimum to qualify? Example they worked one day and quit. Then filed a claim which we have to process.*
- *Why are we still getting paper claims if we are on SIDES?*
- *What if you have a charge from an claimant that has not worked for your company?*
- *Sometimes after I respond on SIDES, I get a notice to fill out the same info on a questionnaire on the My UI employer site. Why am I doing duplicate work?*
- *I received a letter from CDLE after I reported the fraudulent claim months ago. And I then received a notice that you are paying on the fraudulent claim with pandemic funds.*
- *How does CDLE plan to scrub this fraudulent claim from my unemployment account?*
- *What are the reasons an employee can quit for another job and then be approved? Had those reasons changed due to the pandemic?*
- *Could you go over the meaning of each of the levels of the claims - such as "adjudication", "remuneration", "redetermination", etc*
- *Just to clarify the fraudulent claim information, I filed a fraudulent claim form on line and have never received any information that this was received. I received a Notice of Determination on this claim. So if I have already filed the fraud, do I just wait at this point or do I refile it?*
- *You have given a lot of information. So just to clarify: If I had an employee that was terminated due to multiple absenteeism and written up should I keep the appeal or cancel my appeal. I certainly do not want to pay unemployment to her when she does not deserve it.*
- *When I received the redacted version of the letter and the associated email, I acted and am uncertain if I should have. I'm not sure how to proceed. In our situation, the person made two claims and neither had anything to do with the pandemic. Did that person receive unemployment and will that go against our premiums?*
- *THE PAST UI PAY I DID HAS XXXXXX.XX-X HOW DO I FIND A 7 DIGIT NUMBER ?*
- *I missed the first part of the conversation so this may have been covered. We have received several determinations for people who were fired for performance and was not pandemic related at all. Should we appeal based only on the pandemic determination.*
- *The form for filing fraudulent should help with the 7 digit number since it is 6 with dashes etc.*
- *We have not had any employees claim unemployment and I received a letter of Determination. Is this fraud? Who can I contact?*
- *WE reported fraudulent claim but received a redetermination form?*

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- *I had letter mailed back in May 2020 of a possible charge of my account due to employee that was let go back in 2019. I had called on this claim and it was adjudicated back in May 2020. I am now receiving a letter of determination which I filled out with the information above. What is the next steps that I need to do?*
- *Do employers use either myUI or Sides? It is one or the other but not both, correct?*
- *Sorry, I also filled a fraudulent claim and received a notice and a request for wage information*
- *I received a notice of determination for 1 of 4 fraudulent claims. With the information redacted, how do I know which fraudulent claim to re-report?*
- *We received a notice of determination for an employee who was involuntarily separated for cause. The notice referenced COVID. We've also received a statement of benefit charges indicating we've been charged this quarter*
- *Since you stated that there is a disconnect between SIDES and My UI Employer, should we continue to do duplicate work? Can we just say "refer to info already submitted on SIDES"*