COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT
EMPLOYER WEBINAR SERIES

PANDEMIC NOTICES
OF DETERMINATION
& REIMBURSING
EMPLOYERS UPDATE

Division of Unemployment Insurance
coloradoui.gov | October 25, 2021
ABOUT CDLE Employer Webinar Series

**Housekeeping:**
- Copy of the presentation will be available in the comments; webinar is being recorded and will be available on our YouTube channel
- Please ask your questions in the Q&A function of the Zoom meeting, chat is disabled

**Previous webinars on our YouTube Channel**
- Unemployment Insurance Charging Statements, Premiums, Trust Fund
- Paid Sick Leave
- Unemployment Insurance Fraud
- Workers’ Compensation in Covid-19

**Next Webinar:**
- How to Start A Registered Colorado Apprenticeship Program, November 18, 2:30pm MT
Incentives and Compliance Assistance

- Workers’ Comp Premium Cost Containment Program
- Public Safety Programs
- Unemployment Insurance Compliance Assistance Seminars
- Voc Rehab Disability Etiquette and Workplace Accommodations
- Wage and Hour guidance

Employer Recognition Programs

- Governor’s Summer Job Hunt
- Shining Stars of VR
- Workplace Safety Awards
- Excellence in Apprenticeships
PANDEMIC NOTICES
OF DETERMINATION
& REIMBURSING EMPLOYERS
Background

Executive Order
D 2020 012

Issued March 20, 2020

- CDLE had to expedite claims to be paid within 10 days of being filed.
- Delayed typical “adjudication” process - halted most paperwork, including the typical fact-finding documents.
- We issued a “Notice of Determination” in order to now process all the related issues on the claims filed during the pandemic.
- You may have received multiple notices for each former employee.
Notice of Determination

Standard Unemployment Insurance claim paperwork that is issued when a decision is made on a claim...
What does a Notice of Determination Mean?

- 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*. We’ll get into this in the second half of the presentation.
Q: Why did I receive a determination in 2021 for an employee that hasn’t worked for me since 2018 or 2019?

A: We are aware that the claimant may not have separated from your employment because of the pandemic, but ultimately the claim was filed because of the pandemic. The reason you received a notice has to do with the base period model of determining benefits eligibility...
Understanding the Base Period

- When a claim is filed, we review wages for a specific four-quarter time period based on the effective date of the claim. This time frame is known as the base period.

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.

<table>
<thead>
<tr>
<th>File Date</th>
<th>Q1 of 2020</th>
<th>Q4 of 2019</th>
<th>Q3 of 2019</th>
<th>Q2 of 2019</th>
<th>Q1 of 2019</th>
<th>Q4 of 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Must have earned at least $2,500</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
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Example

Q1: Jan | Feb | Mar
Q2: April | May | June
Q3: July | Aug | Sep
Q4: Oct | Nov | Dec
Q: I don’t have any employees, so why did I receive a notice? I didn’t let anyone go, so why did I receive a notice?

A: These are likely cases of fraud due to identity theft. Please do not appeal a claim that you believe is fraud. Instead, you should immediately fill out the employer fraud report at https://cdle.colorado.gov/fraud-prevention.
Q: I already reported this as a fraudulent claim, so why did you pay benefits and why did I get a notice?

A: No employer will be responsible for fraudulent payments made. We are still processing the unprecedented number of fraud claims that have been reported to the division, so this may not yet reflect in paperwork.

If an employer sees charges on their billing statement, they can contact employer services to have that removed. If a reimbursing employer has already paid for a fraudulent claim, you will be credited once the system catches up and establishes the overpayment on the claim.
Q: 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...is the fraud occurring within the CDLE?

A: There is no indication of a CDLE data breach. Note that we only have data around SSNs and wage history, and do not hold data like DOB, mailing address, phone number etc. We believe this data came from the mass data breaches we have seen over the past 10 years, the top five of which are:

- 2013 Yahoo - 3 billion identities compromised
- 2019 First American Financial Corp - 885 million identities compromised.
- 2019/2021 Facebook - 500 million - 1 billion
- 2018 Marriott - 500 million identities
- 2016 Friend Finder - 412 million identities
How do I withdraw my appeal?

- Through your MyUI Employer account
- If you filed an appeal through mail or fax, you may withdraw your appeal by using our online appeal withdrawal form (see link on our notice of determination page of the website).
- This form is for pandemic-related appeals only and is not a standard appeal form.
Reimbursing Employers

While the form is similar to the premium-paying employer form, the language and the meaning is different for reimbursing employers...
Q: Should I appeal a Notice of Determination?

A: There are a number of factors you should consider if you appeal one of these notices:

● Any decision you choose to appeal will go through the appeal process.
● If a claimant wins the appeal and is found entitled to benefits, that would then be charged to your account.
● If these benefits are charged to your account, you will likely experience an increase in your premium rates.
● These non-charging decisions were made, in part, to prevent additional increases to your employer premiums.
● The high number of decisions has resulted in an unprecedented backlog of appeals. Hearings will not be scheduled for several months into the future.
What does a Notice of Determination Mean?

- 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.
- These notices will start going out to reimbursing employers in the next few weeks.
# Federal Pandemic Relief Efforts

<table>
<thead>
<tr>
<th>Timeframe:</th>
<th>Reimbursing Employers Pay:</th>
<th>Federal Government Pays:</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 2020 - April 2021</td>
<td>50% of their charges</td>
<td>50% of employers’ charges (The Coronavirus Aid, Relief, and Economic Security Act and following extensions)</td>
</tr>
<tr>
<td>April 2021 - Aug 31, 2021</td>
<td>25% of their charges</td>
<td>75% of employers’ charges (The American Recovery Plan)</td>
</tr>
<tr>
<td>September 2021</td>
<td>100% of their charges</td>
<td>0% of employers’ charges</td>
</tr>
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</table>
Q: Should I appeal this determination?

A: Although this is an appealable decision, please keep in mind:

- this appeal will go through the normal appeal process, and the claimant could be found entitled to benefits that would then be fully (100%) charged to your account.
- If, as an employer, you lose an appeal, the full amount of benefits for the claim could be charged to your account and it is possible that none of the federal pandemic relief "discounts" will apply.
Q: We are a reimbursable account and 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. When will we receive a notice of determination and will our account be credited back?

A: Notices will be sent within the next few weeks.
Live Q&A -

Please submit your questions in the Q&A section of Zoom.
Thank You!

Division of Unemployment Insurance
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