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NFIB/Ohio

# Unemployment Handbook

Updated January 2014

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# NFIB/Ohio

## Unemployment Handbook

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Note: Some of the information in this handbook is from Ohio Department of Job and Family Services.

## Introduction to Unemployment Compensation

This handbook was prepared to offer you information on the Ohio unemployment system and how to control your unemployment compensation expenses. It provides information in handling unemployment matters including unemployment claims, which ultimately affect the amount you pay in unemployment taxes to the Ohio Department of Job and Family Services (ODJFS).

NFIB/Ohio partners with CareWorks Consultants, Inc. (CCI) to provide Ohio unemployment services to their members. NFIB members enrolled in the workers' compensation group rating program have access to unemployment services at no extra cost. For members not enrolled in the group rating program, this service is available as a stand-alone service. To learn more about this program please call 1-866-780-NFIB (6342).

The Unemployment Compensation Program offers appropriate, customized services and solutions. NFIB/Ohio's unemployment compensation program includes the following services:

### Claims Processing

Experienced, well trained claims examiners will review and process your claims for appropriate cost-control actions (i.e. review determinations and benefit charges).

### Annual Claims Activity Report

Claims activity report will summarize unemployment claims activity during the service period.

### Hearing Attendance

CareWorks Consultants will participate with the employer and/or witness upon request.

### Voluntary Contribution Analysis

CareWorks Consultants will perform a review of the annual tax rate assigned to your account, including a voluntary contribution analysis upon written request.

### Procedure Guide

CareWorks Consultants will provide a written guide with steps to simplify the claims process and interaction with your unemployment team.

### Educational Opportunities

You will be invited to annual seminars and receive quarterly newsletters with unemployment articles and have access to this unemployment handbook.

## Unemployment Compensation History

Unemployment compensation originated as part of the Social Security Act and became effective in 1935. Benefits were made available to workers who became unemployed through no fault of their own. These unemployed workers also were still able, available and actively looking for work. These basic qualifying factors still exist today.

Two employer taxes – one federal and one state – finance the unemployment compensation system. Federal and state governments share administrative responsibility. While federal law established broad mandates, each state has enacted legislation that provides for such

mandates in accordance with each state's conditions. The financing formulas, eligibility rules and benefits levels are determined at the state level.

Benefits paid to unemployed individuals are generally withdrawn from their former employer's "account" maintained by ODJFS. The account is then replenished by a tax on a portion of the employer's payroll.

The Federal Unemployment Tax Act (or FUTA) is a United States federal law that imposes a federal employer tax used to fund state workforce agencies. Employers report this tax by filing an annual Form 940 with the Internal Revenue Service. FUTA covers the cost of administering the unemployment insurance and job service programs in all states. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.

An important objective of the unemployment compensation system is to stabilize the workforce. A merit-rated tax motivates employers to work toward that objective. The tax rewards employers whose unemployment compensation activity is low and penalizes those whose activity is high.

Simply stated, the fewer benefits paid out of an employer's account, the lower your Ohio unemployment tax rate.

## Employer Registration

Under the Ohio Unemployment Compensation Law most employers are liable to pay Unemployment Compensation taxes and report wages paid to their employees on a quarterly basis. If you have not registered yet with the Ohio Department of Job and Family Services (ODJFS) highlighted below are two important pieces of information to help you register your business and begin reporting.

### How to Obtain an Employer Account Number

To register with the Ohio Department of Job and Family Services (ODJFS) for an Unemployment Compensation tax account, employers should complete a Report to Determine Liability (JFS-20100) and mail it to:

Ohio Department of Job and Family Services  
Contribution Section  
P.O. Box 182404  
Columbus, OH 43218-2404

After reviewing the information submitted, ODJFS will notify you in writing of your employer account number and contribution tax rate (if applicable). Please retain the account number in your records as it should be used on all future correspondence and reporting that you submit to the agency.

## Ohio Unemployment Compensation Taxes

Ohio employer payroll taxes, called contributions, go into the Ohio Unemployment

Compensation Trust Fund and are used to pay benefits to unemployed workers. Employees make no contribution themselves, and this payroll tax cannot be withheld from an employee's paycheck.

Who is an employer for the purpose of unemployment coverage? There are three types of employers: those who run a business, those who are engaged in agriculture, and those who hire domestic services.

Employers who run a business can be a person or a legal entity and include:

- Sole proprietors;
- Partnerships;
- Joint ventures;
- Corporations;
- Limited liability companies;
- Associations;
- Fiduciaries, including estates and trusts;
- Non-profit 501(c)(3) organizations;
- Public entities; and,
- Other organizations.

With the exception of non-profit 501(c)(3) organizations and public entities, if you run a business you may become subject to Ohio's unemployment law for one of these reasons:

- You have at least one employee in covered employment for some portion of a day in each of 20 different weeks within either the current or the preceding calendar year;
- You paid wages of \$1500 or more to employees in covered employment in any calendar quarter within either the current or the preceding calendar year;
- You were subject to the Federal Unemployment Tax Act in either the current or preceding calendar year;
- You acquired a business from an employer who was subject to the Ohio law at the time the change of ownership occurred; or,
- You elect to cover your employees voluntarily.

If you think you may be liable, or if you have questions about whether you are required to pay unemployment taxes, please contact ODJFS, Contribution Section at 614-466-2319.

## Taxable Wage Base

The Taxable Wage Base is the amount of an employee's wages upon which the employer is required to pay unemployment taxes each year. The taxable wage base may change from year to year. The taxable wage base for calendar years 2000 through 2014 is \$9,000.

Unemployment taxes (contributions) must be paid on the first \$9,000 of an employee's wages per year. If an individual works for two or more employers, both employers are required to pay unemployment taxes on the first \$9,000 each employer pays to that individual.

Taxable wages are determined based on actual remuneration paid and may not be prorated over the entire year.

If you acquire a business and ODJFS determines that you are a successor in interest, wages paid to an employee by the predecessor employer in the year of acquisition should be counted toward the taxable wage limitation for that year.

For contributory employers, total taxable wages paid to all employees in a quarter should be multiplied by the annual tax rate, as shown on the employer's Quarterly Tax Return (JFS-20125), in order to determine the amount of unemployment taxes due for the quarter.

Who is an "employee" for the purposes of unemployment tax reporting? As defined in the Ohio Revised Code, an employee includes:

- Any officer of a corporation;
- Any worker who is an employee under the usual common law rules;
- Any worker whose services are specifically covered by law; or,
- An employee may perform services on a less than full-time or permanent basis. The law does not exclude services that are commonly referred to as day labor, part-time help, casual labor, temporary help, probationary, seasonal employment or outside labor.

## Contribution Rates

For 2014 the ranges of Ohio unemployment tax rates (also known as contribution rates) are as follows:

■ Lowest Experience Rate	0.3%
■ Highest Experience Rate	8.5%
■ Mutualized Rate	0.0%
■ New Employer Rate (except construction industry)	2.7%
■ Construction Industry	7.2%
■ Delinquency Rate	10.6%

### Rate Notification

The Ohio Department of Job and Family Services mails the Contribution Rate Determination to the employer for the coming calendar year on or before December 1. The notice outlines all factors considered in determining the contribution rate. The tax rate is also printed on the employer's Quarterly Tax Return (JFS-20125), which is mailed to employers quarterly for reporting and payment of taxes due. To determine how much tax is due each quarter, multiply the rate by the total taxable wages you paid during the quarter.

### Experience Rate

Once an employer's account has been chargeable with benefits for four consecutive calendar quarters ending June 30, the account becomes eligible for an experience rate. The experience includes taxable wages reported, contributions paid (including voluntary payments) and benefits charged. Unemployment taxes paid are credited to an employer's account. Unemployment benefits paid to eligible claimants are charged to the accounts of the claimant's employers during the base period of the claim. These factors are recorded on

the employer's account and are used to compute the annual tax rate after the employer becomes eligible for an experience rate.

Due to recent economic conditions and the resulting increase of unemployment claims filed, the Ohio Unemployment Compensation Trust Fund dropped to more than 60 percent below the "minimum safe level" as of the computation date of the 2014 rates (The "minimum safe level" is, in essence, the balance required in the UC Trust Fund to fund a moderate recession). Therefore, the tax rate schedule in effect for 2014 includes an across the board minimum safe level increase to protect the financial integrity of the trust fund. This increase will help re-build the trust fund to the appropriate level. The additional taxes paid as a result of the minimum safe level increase are credited 50 percent to the mutualized account and 50 percent to the employer's account.

The experience rate amount shown on the Contribution Rate Determination is a combined total of the employer's individual experience rate and the minimum safe level increase.

#### **Mutualized Rate**

A separate account, known as the mutualized account, is maintained for the primary purpose of recovering the costs of unemployment benefits that were paid and not chargeable to individual employers for a variety of reasons. When the mutualized account has a negative balance, the costs are recovered and the money restored to the account through a mutualized tax levied on all employers who are eligible for an experience rate. The mutualized tax is used solely for the payment of unemployment benefits.

The mutual rate is shown on the Contribution Rate Determination. The additional taxes paid as a result of mutualized rate will be credited 100 percent to the mutualized account to recover the costs of unemployment benefits charged to the account. For calendar year 2014, the Mutualized Rate is 0.0 percent.

#### **New Employer Rate**

If an employer's account is not eligible for an experience rate, the account will be assigned a standard new employer rate of 2.7 percent unless the employer is engaged in the construction industry, in which case the 2014 rate is 7.2%.

#### **Delinquency Rate**

Employers who did not furnish the wage information necessary for the computation of their 2014 experience rate by September 1, 2013, were assigned a contribution rate equal to 125 percent of the maximum experience rate possible for 2014. However, if the employer filed the necessary wage information by December 31, 2013, the rate will be revised to the appropriate experience rate.

#### **Penalty Rate**

Employers who file the necessary wage information after December 31, 2013, but within 18 months after that date, will have their 2014 rate revised to 120 percent of the rate that would have applied if the employer had timely furnished the wage information.

### **Determining Unemployment Tax Rates**

An employer's contribution rate is calculated on July 1 of each year (referred to as the computation date) and goes into effect on January 1 of the next year. Unemployment tax

rates are assigned to tax contributing employers for each calendar year.

Rate schedules are effective for 12 months. They are subject to annual change. Reduction of employer's unemployment accounts through benefit charge costs often results in increased contribution rates in order to build the fund's balance.

## Tax Rate Notification

Generally in late November, ODJFS issues Ohio Unemployment Tax Notification Contribution Rate Determination for the upcoming calendar year. This notice is mailed directly to the employer or whatever address ODJFS has been directed to use for their tax forms. This advises the employer of their annual unemployment tax rate for the upcoming year. The notice outlines all factors considered in determining the contribution tax rate.

The ODJFS has a special tax provision called a Voluntary Contribution. This provision allows most employers to make a voluntary payment in addition to the required contributions. This voluntary amount must be paid to ODJFS and postmarked before December 31. This voluntary payment may reduce the rate at which the employer will pay unemployment taxes for the next year. The amount if made, will be added to the employer's account balance along with any additional wage or monetary adjustments that may affect the rate computation. If applicable, a revised rate notice will be mailed to the employer or their tax address of record before their first quarter Contribution and Wage Report is due.

The NFIB Unemployment Team at CareWorks Consultants will review this notice upon request for NFIB members that have elected to have access to this service. The team will complete a voluntary contribution analysis to determine the savings or lack of savings that will result if the employer considers the voluntary contribution. Please contact the NFIB Unemployment Team at CareWorks Consultants if you would like their assistance with this.

## Employer Tax Appeals

If an employer maintains that an unemployment tax determination was not in accordance with law, they have 30 days from the date of mailing of the determination in which to file a request for reconsideration (appeal).

The request for reconsideration (appeal) must be in writing, setting forth the employer's reason(s) for requesting reconsideration. Unemployment Compensation tax appeals may be filed by any of the following methods:

- **Mail:** Unemployment Tax Appeals  
P.O. Box 182830  
Columbus, OH 43218-2830
- **Fax:** 1-614-752-4952
- **Email:** [UITaxAppeals@jfs.ohio.gov](mailto:UITaxAppeals@jfs.ohio.gov)

Once a decision is issued an appeal of the reconsideration decision may be filed with the Unemployment Compensation Review Commission (UCRC) within 30 days of the date of mailing of the reconsideration decision. Appeals to the UCRC must be made within 30 days

of the mailing date of the Director's reconsidered decision. The appeal should be filed with:

- **Mail:** UCRC  
P.O. Box 182299  
Columbus, OH 43218-2299
- **Fax:** 1-614-387-3694
- **Phone UCRC Toll Free:** 1-866-833-UCRC (8272)

## Quarterly Reporting Requirements

Employers are required to file a complete Quarterly Tax Return each quarter. The report consists of two sections, the Wage Detail and Quarterly Summary.

Contributory employers must file both the Wage Detail and Quarterly Summary. Both are contained on the same form, the Unemployment Compensation Quarterly Tax Return (contributory) (JFS-20125).

Reimbursing employers (non-profit and public employers) must file both the Wage Detail section. The Unemployment Compensation Quarterly Tax Return (Reimbursing) (JFS-20126) is used by reimbursing employers.

Reporting forms may be mailed to one of the following addresses:

### US Postal Mailing Address

Ohio Department of Job and Family Services  
Contribution Section  
P.O. Box 182404  
Columbus, OH 43218-2404

### Physical Overnight Delivery Address

Ohio Department of Job and Family Services  
Contribution Section  
4020 E 5th Ave  
Columbus, OH 43219-1811

**Reminder:** Even if you had no employees and paid no wages during the quarter, a report indicating that you had no employment must be filed by the due date. For your convenience, reports showing no employment may be filed through the UC Tax Interactive Voice Response (IVR) system by calling 1-866-44-UCTAX (448-2829). To use the IVR system, you will need to have both your ODJFS employer number and your federal employer identification number (FEIN).

Quarterly reports must be filed no later than the last day of the first month following the close of the calendar quarter being reported. The postmark date is considered the date of filing.

**First quarter:** April 30.

**Second quarter:** July 31.

**Third quarter:** October 31.

**Fourth quarter:** January 31.

If the due date falls on a Saturday, Sunday, or holiday the report must be postmarked by the next business day. We encourage you to mail your reports as quickly as possible, but no later than a few days prior to the deadline to avoid late filing penalties.

If you need a contribution or wage record reporting form you may request a replacement from:

ODJFS  
Contribution Section  
PO Box 182404  
Columbus, OH 43218-2404

Or by calling the Contribution Section at 614-466-2319. If time is of the essence, please call to receive instructions for filing without the form.

Electronic filing is also available through Ohio Business Gateway an electronic filing system. This website is available for employers to file quarterly ODJFS unemployment taxes, as well as Workers' Compensation Premiums, sales tax and payroll withholding taxes. For assistance with this system, call the OBG Electronic Filing Help Desk at 866-OHIO-GOV (866-644-6468).

#### **Correcting the Wage Detail**

If an error was made and reported incorrectly to ODJFS, do not use any portion of the Quarterly Tax Return (JFS-20125) to correct reports previously filed.

- Use a Request to Amend the Quarterly Tax Return (JFS-20129) to correct wage items.
- A separate Request to Amend the Quarterly Tax Return (JFS-20129) must be submitted for each quarter being corrected.
- Each employee record you wish to amend should appear as it would have if submitted correctly and must contain a social security number, employee name, gross wage, and number of weeks.
- Do not re-list employee records previously submitted correctly.
- Do not use negative figures to report changes in gross wages or weeks.

**Note:** To file magnetic tape or diskette wage reports, please contact the Wage Record Magnetic Media Coordinator at (614) 752-9661 to obtain specific instructions.

### **Consequences of Failure to File and Pay Unemployment Compensation Tax Reports Timely**

Information supplied by employers on quarterly reports is used to determine annual rates. Employers who have not furnished wage information necessary for computation of their experience rate by September 1 of each year will be assigned a Delinquency Rate equal to 125 percent of the maximum experience rate possible for the coming year.

Wage reports provide the basis for possible benefit claim awards. Inaccurate and untimely reports will create additional reporting for the employer, delays in benefit payments and increased costs associated with report and benefit processing.

The two reports are considered one for filing purposes. A single penalty (forfeiture) will be assessed for not filing a complete quarterly Contribution and Wage Report when due. The forfeiture will amount to 0.25 percent of the total wages reported. The minimum penalty for failure to file a quarterly report when due is \$50 and the maximum is \$1,000.

Employers are urged to file the quarterly reports when due, even if the taxes cannot be paid. Although the unpaid taxes will accrue interest, the forfeitures can be avoided when reports are filed timely. Interest will accrue on the unpaid taxes as well as any unpaid forfeitures at the annual rate of 14 percent compounded monthly.

Under certain circumstances a waiver of forfeiture may be granted for the untimely filing of the quarterly report if a written request is submitted within four years of when the forfeiture was assessed. Interest may also be waived if the employer submits a written request for waiver and meets other statutory requirements within 30 days of the interest assessment.

#### **Missing Report(s)**

A Notice of Failure to File (JFS-20158) is mailed to every employer by ODJFS who does not submit a complete Quarterly Tax Return to ODJFS. A completed Quarterly Tax Return includes both the Wage Detail section and the Quarterly Summary section.

The Notice of Failure to file indicates which quarter's tax return is missing and how to resolve the delinquency. Please submit the missing Quarterly Tax Return(s) to:

ODJFS  
Contribution Section  
P.O. Box 182404  
Columbus, OH 43218-2404

If you have submitted a complete Quarterly Tax Return and sent money, please check your records for a canceled check. Send a copy of the report and a copy of check (front and back) to the ODJFS address noted above. Make sure your employer number is shown on all copies being sent.

Once the missing Quarterly Tax Return of your report is processed you will be assessed one or more forfeitures and interest.

Employers who receive assessments for the late filing of quarterly reports (forfeiture or interest due) may request a waiver of the assessment(s). Please note that all forfeitures and interest assessed remain due and payable until a written notification is received that a waiver has been granted.

All waiver requests, submitted in writing, should be mailed to:

ODJFS  
Waivers  
PO Box 182404  
Columbus, OH 43218-2404

A request for a waiver of **forfeiture**, must meet all of the following requirements:

- Furnish all Quarterly Tax Returns due.

- Submit a request for waiver within four years after the date the forfeiture was assessed.
- The request must include a statement that documents facts and circumstances sufficient to establish, to the satisfaction of the director, that there was good cause for failure to file reports timely.

A request for a waiver of **interest** may be submitted if the employer meets all of the following conditions within 30 days after the date the director mails or delivers the notice of assessment of interest.

- Furnish all wage information and quarterly reports due.
- Pay all contributions, payments in lieu of contributions, interest, forfeitures, and fines due. Submit all outstanding amounts due, other than the interest referenced in the request.
- Submit a request for waiver and include a statement documenting facts and circumstances sufficient to establish, to the satisfaction of the director, that the failure to make timely payment was due to circumstances beyond the control of the employer. Please note that negligence by the employer or his agent is not considered beyond the control of the employer.

**Note:** The period (30 days) during which a waiver or an appeal can be filed is the same. To protect your appeal rights, be sure to submit an appeal within the 30-day period or include the appeal with your waiver request. Do not request a waiver and wait for a response before submitting your appeal.

### What is the difference between an "Employee" and an "Independent Contractor" for purposes of U.C. Tax reporting?

An employer-employee relationship exists when a person who hires an individual to perform services has the right to exercise control over the manner and means by which the individual performs his or her services. The right of control, whether or not exercised, is the most important factor in determining the relationship. The right to discharge a worker at will and without cause is strong evidence of the right to exercise direction and control.

The services of an individual that is determined to be an independent contractor (under contract to perform a special service for an employer) are excluded from covered employment. To be excluded employment, it must be established by the employer that the contractor is free from direction or control over the service being performed.

There are 20 questions used to help identify whether or not an employer-employee relationship exists.

1. Who directs or controls the manner or method by which instructions are given to any individual(s) performing services?
2. What training is required for individual(s) performing services?
3. How are the services provided integrated into the regular functions of the employer?
4. By whom does the business require that services be provided?
5. Who hires, supervises and/or pays the individual(s) performing services?
6. What type of relationship exists between the business and the individual(s) performing services which contemplates continuing or recurring work, even if not full time?

7. Who sets the time (hours) during which the individual(s) services are to be performed?
8. How much time does the business require the individual(s) performing services to devote to the business?
9. Where does the business require that work be performed?
10. Who sets the order of work the individual(s) follow while performing services for the business?
11. What type of reports, oral or written, does the business require the individual(s) performing services to submit?
12. How are the individual(s) performing services paid?
13. Who pays expenses for the individual(s) performing services?
14. Who furnishes the tools and materials used by the individual(s) performing services?
15. What investment do the individual(s) performing services have in the facilities used to perform the services?
16. What is the profit or loss to the individual(s) performing services as a result of the performance of such services?
17. Do the individual(s) performing services also perform similar services for other businesses? If yes, for whom?
18. How do the individual(s) performing services make their services available to the general public?
19. Does the business have the right to discharge the individual(s) performing services? If, yes, in what manner?
20. Do the individual(s) performing services each have the right to end the relationship with the business, without incurring liability pursuant to an employment contract or agreement? If yes, how?

A written contract that claims to create a relationship of principal and independent contractor is not controlling if the practice of the parties shows that the principal retains the right to exercise direction or control under the common law test. For more information, please contact the Contribution Section at 614-466-2319.

### **Scheduled for an Unemployment Compensation Tax Audit?**

If you receive notice that your business will be audited, don't panic. Most audits are routine and selected at random. Your notification gives you the date, time, and place of the audit. It also specifies the period of time the audit will cover and provides a list of the business records you must provide the auditor. Use this opportunity to contact the auditor to confirm the appointment and introduce yourself. The auditor will be able to explain the steps that will follow.

After the audit is completed, the auditor will review the results with you. If there are additional taxes due, and you are in agreement, you will be asked to pay any amounts due. If you disagree, the auditor can explain what to do next. Many audits result in no additional taxes due or reveal an overpayment that can be refunded to you.

Ohio unemployment compensation law gives ODJFS the right to inspect employers' records in order to ensure that employers comply with unemployment tax laws. There are several reasons why ODJFS audits employers.

- ODJFS samples employers for compliance by size or type of firm and by random selection.

- A former employee may have filed an unemployment claim then found the wages reported to the state were different from their records. You may have not regarded the person as an employee.
- The wages you reported to the federal government on your Federal Unemployment Tax Act (FUTA) form 940 are different from what you reported to Ohio.
- The U.S. Department of Labor requires ODJFS to randomly audit a percentage of Ohio employers every year.

An auditor will confirm that all wages have been reported correctly and that all taxable wages have been computed correctly. The most common types of payroll not reported involve payments for casual and contract labor, commissions, remuneration to corporate officers and independent contractors.

Often employers pay for what they believe are independent contractors; not subject to the law. Later, it is found that these people are employees and tax payment should have been made. You may also have liability over casual labor, commissions, payment or other remuneration to corporate officers. The auditor will make findings using clear legal and administrative guidelines. Any findings will be explained in an exit conference.

A normal audit is for one calendar year, but an audit can cover up to four years. If there is an exception, the auditor will explain the situation to you.

Records reviewed include payroll records, W-2 Forms, 1099s, IRS forms, state tax forms and general disbursement records such as your check record journal, invoices and canceled checks. Your accountant can be present at an audit if you feel the accountant has a better grasp of the records.

The employer can file an appeal if they do not agree with the auditor's findings. The Notice of Employer's Liability and Contribution Rate contains the final date by which you must file your appeal. The request must be in writing and state why you believe the notice is incorrect.

## Filing an Unemployment Claim

As explained earlier, unemployment benefits drawn from your account have a direct impact on your unemployment tax rate. Understanding the claim side of the system is very important. The final sections in this handbook will assist you with this.

To file an unemployment claim, a former employee must either file online at [unemployment.ohio.gov](http://unemployment.ohio.gov) or by telephone at 1-877-OHIOJOB (1-877-644-0562). Personal information such as social security number and either driver's license or state ID number must be provided, address, number of dependents and their social security number. The employee also needs to supply the reason they became unemployed from each employer during the past 18 months.

Claims for unemployed benefits are normally filed on a biweekly basis. However weekly filing for benefits is required, for the first three weeks after filing a new claim. After the first three weeks, claimants can continue to file claims weekly only if you choose to receive correspondence electronically, rather than through the postal system. If they do not choose

to receive correspondence electronically, they will be converted to a biweekly claim schedule.

If the claimant is determined eligible for unemployment benefits, during the 52 consecutive week period (the benefit year) the claimant has a limited amount of money from which to draw (the weekly benefit amount multiplied by the amount of benefit weeks allowed). If during the benefit year the claimant returns to work and are separated again or has earned gross wages greater than their weekly benefit amount, they must file an application to reopen their claim. The reason for their unemployment will be examined to determine if they are still eligible to receive any remaining benefits.

## Types of Unemployment Claims

There are several types of initial unemployment claims. A few of the most common types are:

### Regular Unemployment Compensation

A person may qualify for regular unemployment compensation if he or she worked long enough in covered employment, lost a job through no fault of their own, is able and available for work and is actively seeking work. These conditions also apply to the following types of unemployment benefits.

### Seasonal Claim

ODJFS standards' for seasonal employment with seasonal employers is different depending on certain special circumstances. In some cases, an individual may qualify for benefits (within a season) with fewer weeks of employment than is normally required; however, he or she will not be eligible to draw benefits for weeks outside of the season.

### School Claim

If an individual is separated from an educational institution, but has "reasonable assurance" of employment in the next school term, unemployment will be denied during the scheduled school break. If, however, the applicant has sufficient non-educational employment to qualify separately, he or she may be eligible for benefits between terms. Additional information on eligibility criteria is available at ODJFS.

### Interstate Claim

An individual who worked in Ohio during the base period, but now resides in another state, may call 1-877-644-6562 to file an Ohio unemployment claim. If the base period work was performed in Ohio, the claim is subject to Ohio law and all determinations and payments would be made by Ohio. Likewise, if an applicant is an Ohio resident and wants to file a claim against another state, he or she should call the toll free number listed above, and ask for information and assistance on how to file when employment was in a state other than Ohio.

### Combined Wage Claim

An individual who worked in more than one state during the base period, may qualify for unemployment benefits by combining wages from those states. To establish a combined wage claim, the applicant must apply for benefits with one of the states where the base period wages were reported.

### Unemployment Compensation for Federal Civilian Employees

If an individual is separated from civilian employment with the federal government, he/she

may qualify for unemployment benefits. The applicant must provide the SF-8 or SF-50 form provided by the federal government employer at the time of separation. The federal agency will be contacted to verify the number of weeks and the amount of wages as well as separation information.

#### **Unemployment Compensation for Ex-Military Personnel**

An individual may qualify for benefits if he or she served in active military duty during the last 18 months. The applicant must meet certain federal requirements and provide discharge papers (Form DD-214-member 4 copy). ODJFS can answer questions and provide assistance in obtaining Form DD-214-member 4 copy.

#### **Disaster Unemployment Assistance**

If unemployment is caused by a federal declared major disaster, an individual may be eligible for up to 26 weeks of Disaster Unemployment Assistance administered by ODJFS.

#### **Trade Adjustment Assistance**

A person may be eligible for a variety of benefits and reemployment services if the hours of work and the amount of wages are reduced if he or she loses a job, or the company's business is threatened as a direct result of international trade. These services include Trade Readjustment Allowances, job search allowance, relocation allowance, training, Health Care Tax Credit (HCTC), and a wage subsidy available through the Alternative Trade Adjustment Assistance (ATAA) Program for older workers. Each benefit has its own eligibility requirements and claimants must apply for each benefit separately before any related service can begin.

### **Establishing Eligibility for Unemployment Benefits**

Unemployment Benefits are paid to a claimant (a person who has filed for unemployment benefits) when they meet the unemployment law requirements. They are to partially replace wages lost while the claimant is unemployed.

There are two types of requirements. The first type of requirement is monetary (weeks and wages). The claimant must:

- Be unemployed (or working reduced hours) at the time of filing;
- Have at least 20 qualifying weeks of covered employment in the base period (see below for explanation of covered employment and base period); and,
- Earn an average weekly wage of at least \$233.00 before taxes or other deductions (this amount changes each year).

The second type of requirement is non-monetary (unemployment must be through no fault of the claimant).

#### **What is covered employment?**

Under Ohio law, most employers are required to pay contributions for unemployment insurance. Work for such an employer is "covered" employment. Work for a nonprofit or government agency is "covered" employment, even though the employer does not pay regular contributions, but instead reimburses the cost of unemployment benefits paid to its former workers.

**What is a calendar quarter?**

**First Quarter:** January 1 thru March 31.

**Second Quarter:** April 1 thru June 30.

**Third Quarter:** July 1 thru September 30.

**Fourth Quarter:** October 1 thru December 31.

**What is the base period?**

The regular base period is the first four of the last five completed calendar quarters, before your claim begins.

**If your claim begins between these dates:**

January 5, 2014 thru April 5, 2014

April 6, 2014 thru July 5, 2014

July 6, 2014 thru October 4, 2014

October 5, 2014 thru January 3, 2015

**Your base period will be:**

October 1, 2012 thru September 30, 2013

January 1, 2013 thru December 31, 2013

April 1, 2013 thru March 31, 2014

July 1, 2013 thru June 30, 2014

**Note:** If the claimant worked 20 weeks, but the weeks do not fall within the regular base period, or their average weekly wage was less than the established minimum within the regular base period, the claimant may still be able to establish a right to benefits if the weeks fall within the alternate base period. The alternate base period is the last four completed calendar quarters before the claim begins.

**If your claim begins between these dates:**

January 5, 2014 thru April 5, 2014

April 6, 2014 thru July 5, 2014

July 6, 2014 thru October 4, 2014

October 5, 2014 thru January 3, 2015

**Your alternate base period will be:**

January 1, 2013 thru December 31, 2013

April 1, 2013 thru March 31, 2014

July 1, 2013 thru June 30, 2014

October 1, 2013 thru September 30, 2014

**Note:** ODJFS will determine the weekly benefit amount, the total benefits and the beginning date of the benefit year. However, if the claimant had a previous claim established, they must have had six weeks of employment and earned three times the average weekly wage in work since that first application before they can establish another new claim.

Benefit rights are determined by the number of weeks worked and the amount of gross wages a claimant earned in covered employment during the "base period."

The benefit year is the 52 consecutive weeks that follows the date an application is allowed.

The amount of wages a person earned and the amount of employment in the base period are key factors in determining the following:

- Whether the benefits are paid;
- How much is paid; and,
- How many weeks the employee can collect benefits.

Once benefit rights are established, they are payable during the benefit year.

The amount of compensation a claimant receives for a week of total unemployment is the weekly benefit amount. This amount generally is determined to be 50 percent of the average weekly wage calculated from their base period wages or the established maximum, whichever is less. The maximum weekly benefit amounts are established each year. Number

of claimed dependents always makes an impact on the weekly benefit amount.

The weekly benefit amount is the amount of benefits you may be entitled to receive for one week of total unemployment. Your weekly benefit amount is computed at one-half of your average weekly wage during your base period. However, in no case may the weekly benefit amount exceed the state’s annually established maximum levels (based on the number of allowable dependents claimed). The 2013 maximums for each dependency classification are given in the following table:

Number of Allowable Dependents	Dependency Classification	If your Average Weekly Wage was:	Then your Maximum Weekly Payment is:
0	A	\$836 or higher	\$418
1 or 2	B	\$1,014 or higher	\$507
3 or more	C	\$1,128 or higher	\$564

Once the weekly benefit amount is computed, ODJFS determines the number of weeks the claimant is entitled to benefits. A claimant is allowed 20 benefit weeks for the first 20 qualifying weeks in the base period and one additional benefit week for each qualifying week above the maximum of 20. The rate of increase is continued up to a maximum of 26 weeks as shown below:

Qualifying Weeks	Benefit Weeks
20	20
21	21
22	22
23	23
24	24
25	25
26	26

Total benefits paid within a benefit year are determined by multiplying the weekly benefit amount by the number of benefit weeks. For example, a claimant who has 20 qualifying weeks in the base period and a weekly benefit amount of \$400 per week will have total benefits of 20 x \$400 or \$8,000. This is the amount that the claimant is eligible to receive effective the beginning of the benefit year.

The claimant must continue to be unemployed, as well as able available and actively seeking employment to collect all benefits.

## Maintaining Eligibility for Unemployment Compensation Benefits

### Able to Work

A claimant must be physically and mentally able to perform work in their trade or occupation. If they are ill and unable to work during one or more days of your normal work week, they may not be entitled to benefits for that entire week. If they are not physically and mentally able to work in their trade or occupation, they may receive benefits only if they furnish medical evidence that they can do other types of work for which they are qualified.

### Available for Work

To be considered available for suitable work, a claimant must be ready and willing to work

any shift of any occupation consistent with their prior training and experience. If they unduly restrict hours, wages, or conditions of employment, which limit their chances of obtaining work, benefits may not be paid for the week(s) claimed.

**Actively Seeking Work**

A claimant will be informed of the minimum work-search efforts they must make each week (Sunday through Saturday) to remain eligible for benefits. Most people are required to make a good faith effort and to actively seek suitable work on their own. If so, Ohio law requires a claimant to keep a written record of their efforts to find work during each week. They need to be prepared to submit a copy of their work search contacts upon request. Failure to provide proof of their work search efforts may result in benefits being disallowed.

Claimants must seek suitable work either in the locality where they worked or in a locality where their type of work is normally performed. If working part-time, they must still seek suitable employment to meet eligibility requirements.

A claimant may be required to register with SCOTI (Sharing Career Opportunities and Training Information), ODJFS's job matching system, for job placement assistance. For a list of locations where they can register in person, go to this website:  
[ifs.ohio.gov/workforce/jobseekers/onestopmap.stm](https://ifs.ohio.gov/workforce/jobseekers/onestopmap.stm).

A claimant may be required to remain active with their labor organization if their union has a hiring hall and this is the normal method they follow to obtain work. To remain active, they must be a member in good standing and eligible for placement or referral. Ohio law requires they keep a written record of contacts with their union to obtain work.

If a claimant is on a temporary layoff, the work search requirement is waived if a claimant is expected to return to work within 45 days. If this is a temporary layoff, the claimant needs to make themselves available to their employer for work and to keep their employer informed as to how to contact them for work.

**Earnings and Income**

A claimant must report earnings for services performed and any income paid or payable to them while they are claiming unemployment benefits.

If they work part-time or perform odd jobs during the weeks for which they file for unemployment benefits, they may still be paid unemployment benefits if their gross earnings are less than their weekly benefit amount. They must report gross earnings for the week (Sunday through Saturday) in which it is earned, even if they have not yet been paid.

If their earnings are less than their weekly benefit amount, Ohio law allows them an exemption of 20 percent your weekly benefit amount before a deduction is made.

**Example:** If the weekly benefit amount is \$400, and weekly earnings are \$200.

To calculate the earnings deduction:

Total earnings in a week	\$200
Minus earnings exemption (20% of \$400)	- \$80
Equals earnings deduction	\$120

**Note:** Holiday pay is deducted after the 20 percent earnings exemption is applied

To calculate amount of benefits paid:

Weekly benefit amount	\$400
Minus earnings deducted	- \$120
Equals benefit amount paid	\$280

**Note:** If earnings/holiday pay are equal to or greater than their weekly benefit amount, no benefits will be paid. All earnings, even if they would not affect the weekly benefit amount must be reported.

A claimant must report all income, including payments other than wages. If the money is determined to be deductible from their benefits, the entire amount of money will be deducted. Types of income that may be deductible include:

- Severance pay;
- Vacation pay;
- Pensions;
- Workers' compensation; and,
- Company buy-out payments.

If the deductible income is less than their weekly benefit amount, their weekly payment will be reduced by the amount of income for the week.

Some types of income may not be deducted, such as:

- Supplemental unemployment benefits (S.U.B.);
- U.S. National Guard/armed forces reserve pay for scheduled drills;
- Interest and dividends; and,
- Rental income.

## Business Owners Qualifying For Unemployment Benefits

As a business owner, have you ever had to consider filing for unemployment benefits? If so, there are a few steps in the process to understand. Being eligible for benefits is first determined on if you pay unemployment taxes on yourself. The below questions and answers are to help clarify this process.

**As the owner of a business, do you need to report your income for unemployment tax purposes?**

If the business is a **proprietorship**, then the spouse, the parents of the proprietor, the children under the age of 18 years of age, and the proprietor are not considered to be employees in determining liability and therefore wages do not need to be reported.

If the business is owned by a **general partnership**, the partners are the employers and are not to be considered employees in determining liability and therefore wages do not need to be reported.

If a business is **incorporated**, then the corporation itself is the employer and all those individuals rendering service, including stockholders, their family members, and officers of

the corporation, are considered to be employees in determining liability and therefore SHOULD report wages on themselves in order to be covered by unemployment tax.

#### Are business owners eligible to file for and collect unemployment benefits?

Individuals are eligible to collect unemployment benefits if their wages have been reported on a quarterly basis to the State. If wages have been reported, then taxes have been paid on those wages and are therefore covered by Ohio Unemployment Insurance. Individuals who are covered are able to collect benefits if eligibility requirements are met.

#### What are the eligibility requirements for collecting unemployment benefits?

Persons collecting unemployment benefits must be:

- Physically able to accept and perform work of a suitable nature;
- Ready and willing to work any shift of any occupation that is in line with prior training and experience; or,
- Actively seeking suitable work.

If you feel that you are entitled to benefits and are eligible to collect you may file an application for benefits in Ohio by telephone at 1-877-644-6562 or online at [www.unemployment.ohio.gov](http://www.unemployment.ohio.gov).

### Protesting an Unemployment Claim

When a claim is filed, ODJFS will mail to the employer or the employer representative a claim form to gather separation information. All claim documents have a deadline date to respond. A ruling on the separation issue will be made by the ODJFS processing center after the expiration of this deadline.

There are two types of employers in every unemployment claim. First is the separating last employer who is the employer the claimant is filing against. There are also the base period employer(s). These are the employers that reported wages on the claimant during the base period (first four of the last five completed calendar quarters). Depending on the length on the claimant's employment an employer might be both the separating last employer and a base period employer. Both types of employers have protest rights on the claim document when issued if the separation reason is something other than a lack of work.

The separating last employer is issued a Request to Employer For Separation Information. The employer is allowed 10 business days to respond. This response needs to be sent back to the processing center that issued the claim. Failure to timely or adequately respond to this information request may result in the employer being charge for unemployment benefits.

The base period employers are issued a Determination of Unemployment Benefits and have 21 days from the issue date to respond back to the processing center. **Failure to respond does result in a loss of all future protest rights and the employer's account will be charged while the claimant receives benefits.** This form does state that benefits have been allowed however this is the base period employer's only opportunity to protest their percentage of the liability that ODJFS shows listed on this form. Your separation information is not being used by ODJFS to determine if benefits will be allowed. "Only the separating last employer

information is used for this purpose. The employer's protest is to get relief of their potential liability if the claimant collects benefits which should be stated in your response.

When responding to these claim documents all details regarding the separation issue need to be provided. If you are utilizing the unemployment service at CareWorks Consultants they will contact you to review the claim and provide information on your behalf. Dates of employment (first and last day worked) along with employment separation details need to be provided.

If the separation reason is a "lack of work" the claim generally will be allowed by ODJFS regardless of whether or not an employer response is submitted to the processing center.

If the separation reason is a voluntary quit separation details such as the following should be provided:

- Did the claimant give notice? If yes, was it verbal or written. If written, provide a copy of the resignation to the processing center with your response. If verbal, give details of what the claimant said and to whom he/she resigned to. The burden of proof is on the claimant to produce information to ODJFS showing "just cause" for leaving their employment.

If the separation reason is due to a discharge the burden of proof falls onto the employer to prove it was for "just cause". All details on the final incident and previous documentation such as verbal and written warnings and a copy of the company policy that was violated will be extremely beneficial when protesting this claim.

## Separation Reasons for Unemployment

ODJFS classifies a separation issue primarily as either a lay off, voluntary quit or a discharge

### If *laid off*, may the applicant be eligible for benefits?

An applicant's unemployment must not be his/her fault. If laid off due to a "lack of work" (for example, the job was abolished, the business closed, or the plant shut down), there is no question that the applicant did not cause the unemployment. The monetary requirements also must be met to qualify for unemployment benefits.

### If he/she *quit*, may the applicant be eligible for benefits?

An applicant's unemployment must not be his/her fault. If the applicant quit a job when the option of remaining employed existed, he/she has caused the unemployment. To establish eligibility, the applicant must show that he/she had "just cause" for leaving the job.

Examples of "just cause" may include such reasons as:

- The worker's health was endangered or he/she was physically unable to do the work. The worker notified the employer with a medical statement before quitting and gave the employer reasonable time to find other suitable work for him/her which could not be accomplished.
- The employer could not meet conditions of the hiring agreement, such as hours or wages or had to change these conditions.
- The employer could not provide legally-required safety equipment or measures.

- The employer required the worker to perform work that violated accepted moral or legal standards.

If he/she was *discharged (fired)*, may an applicant be eligible for benefits?

An applicant's unemployment must not be his/her fault. If discharged from a job, the applicant may be considered not eligible for benefits -- if the employer shows why the discharge was for "just cause."

Examples of a discharge for "just cause" include if the worker:

- Violated established company rules;
- Neglected the responsibilities of the job;
- Disregarded the employers' interests; or,
- Performed the work carelessly.

If he/she participated in a voluntary separation plan offered by the employer, may the applicant be eligible for benefits?

Eligibility for unemployment compensation when a claimant has taken a special attrition package or buyout depends upon how the special attrition package is structured. Under Ohio law, a worker who is separated under an employer approved plan which permits the employee, because of lack of work, to accept a separation from employment is determined to have quit with "just cause" and may be eligible for regular state unemployment benefits. However, separation or termination pay would be considered deductible income.

If the buyout proceeds, as allocated by the employer, are attributed to the last day of employment (whether paid in a lump sum or not), the income would not be considered deductible pursuant to Ohio state law. In contrast, if the employer allocates the proceeds over a period of time or is silent on the issue, the income will be treated as weekly income (whether paid in a lump sum or not) and deducted from any potential UC payments.

What is meant by "just cause"?

Ohio law defines "just cause" for a quit or discharge as whether the action taken was what an ordinary person would do under similar circumstances.

## Determination of Benefit Rights

There are primarily three classifications for employment separation. These are lack of work, voluntary separation or discharged by the employer. The claimant is asked for his/her version of the separation issue and the employer is given an opportunity to provide their version of the separation reason. Based on this information a Determination of Benefits is issued either denying or allowing benefits.

Once a decision is made by ODJFS as to the claimant's eligibility to receive unemployment benefits, they are required to notify all parties involved, including all base period employers. The unfavorable party has 21 days from issued date to file an appeal. Failure to file the appeal timely results in the loss of all future protest rights in the claim. If a timely or adequate response was not made to the initial request for information and the employer files an appeal to the determination, this will constitute an occurrence. Four or more occurrences in a calendar year will result in the employer being charged for any overpayment caused by the failure to provide the timely and adequate information to the Request for Separation.

If CareWorks Consultants is the official address of record, the decisions are mailed to them. Upon receipt, the NFIB team at CareWorks Consultants will determine if the claim is allowed or disallowed. If disallowed, CareWorks Consultants unemployment system will be updated to ensure charges are not accepted, if issued against your account.

If CareWorks Consultants receives an unfavorable Determination on behalf of the employer, on a separation ruling other than lack of work, their Claims Examiner will contact the employer to discuss an appeal and submit the appeal if applicable. Further appeals are filed as needed.

Often a Redetermination will be issued by ODJFS either reversing or affirming the decision. Appealing all unfavorable decisions timely will result in the claim being scheduled for an unemployment hearing.

## Review Commission Hearings

If you find yourself involved in an unemployment hearing, it is helpful to understand the process and what to expect. Below are some frequently asked questions and answers that should help you with the process.

### How does an unemployment claim get into a hearing?

When an interested party files a timely appeal to the Director's determination and a Redetermination (if applicable) issued by ODJFS the file will be transferred to Review Commission for a hearing to be conducted.

### What is the Review Commission?

The Review Commission is composed of three members appointed by the Governor, a staff of attorney/hearing officers, and support staff. The Review Commission is independent of ODJFS. The Commission reviews ODJFS unemployment decisions and may affirm, reverse or modify these decisions.

### How will I know the date, time and place of the hearing?

You will receive a Notice of Hearing advising you of this information. Be sure to review this notice carefully and do not miss your hearing. If you are the appealing party and miss the hearing, your case will be dismissed. The majority of hearings are conducted via telephone. A telephone hearing may be changed to an in-person hearing if the requesting party is willing to travel to the hearing location determined by the Commission. A claimant working during the day may request an evening hearing. Night hearings are conducted by telephone, Monday through Thursday, between 5:00 p.m. and 9:00 p.m.

### What if I need the hearing to be rescheduled?

Immediately upon receipt of your notice of hearing, check your schedule and the schedule of potential witnesses to determine existing conflicts. If there is a conflict that cannot be resolved, contact the Review Commission at the number provided in your notice of hearing. You must have good cause for postponement. Examples of good cause is conflicting court case, airline flight. Written documentation to verify this can be required. Obtaining approval for a postponement is very difficult.

### How is a telephone hearing conducted?

Documentation that has not already been supplied must be sent to the Review Commission before the hearing. Copies of this documentation must also be provided to the claimant (via

certified mail is recommended). The day of the hearing, you must call the Review Commission 15 minutes before the hearing is scheduled to begin. You will need to give your name and the names of any witnesses along with the telephone number(s) where they can be reached. The hearing officer will coordinate the conference call and join all parties.

### What can I expect at the hearing?

Unemployment hearings can be conducted in person or via telephone. Today, the vast majority of unemployment hearings are conducted by telephone. Hearings are conducted in the same manner whether they are in person or by telephone.

Hearings are typically scheduled for 45 minutes. The Hearing Officer will do everything possible to complete the hearing within the time allotted, but if more time is needed they will continue the hearing and reschedule it for a later date and time in order to finish up taking necessary testimony.

Hearing procedure will be explained by the Hearing Officer at the start of the Hearing. The Hearing Officer will explain that the hearing will be recorded to preserve a record of the proceedings and then they will begin by making a few introductory statements on the record to identify the case being heard, date and time of the hearing, and who is present for the hearing.

After these administrative tasks are completed the Hearing Officer will place all witnesses providing testimony under oath and then the witnesses will be questioned regarding the issues set forth in the hearing notice. The purpose of the questions is to ascertain relevant facts and fully develop the record. The Hearing Officer will begin questioning with either the primary witness for the employer or the Claimant. They will begin by asking general questions such as the claimant's dates of employment and job title and then will move to more specific questions regarding the circumstances leading up to the separation as well as how the separation itself occurred.

Following the Hearing Officer's questioning, parties, or their authorized representative, will be given the opportunity to question the opposing party. Upon completion of cross examination, the Hearing Officer will turn to the party not yet questioned and ask them similar questions to that of the opposing party. The Hearing Officer will also take relevant testimony from any additional witnesses as all parties have the right to present credible witnesses at the time of the hearing.

Once questioning is completed and all relevant testimony has been provided for the record the Hearing Officer will allow each party, or their authorized representative, to make a brief closing statement to summarize their position or if you so choose you may rest on the record of testimony already presented. At this time, the hearing is concluded and all parties are disconnected. The Hearing Officer will then take the matter under advisement, review the case file as well as all testimony presented during the hearing and they will issue a written decision which will be sent to all parties by mail.

If you are in disagreement with the Hearing Officer's decision there is an appeal rights section which includes instructions on how to proceed to the next level of appeal: the Board of Review.

The NFIB Unemployment team at CareWorks Consultants can provide hearing assistance to NFIB members. NFIB members enrolled in the workers' compensation group rating program

have access to unemployment services at no extra cost. For members not enrolled in the group rating program, this service is available as a stand-alone service.

## Hearing Tips

Below are a few tips about the hearing process that might help with some unanswered questions.

- If you are giving testimony during an unemployment hearing, the following are some key points to effective testimony.
- Think about each question that you are asked before making a response. Keep each response clear, concise and to the point. Do not sway from the subject at hand.
- Tell the truth! Remember you are under oath and your testimony should reflect, as accurately as possible, what you know, saw, heard or did.
- Do not guess at answers. If you do not know the answer to a question, say so. If you do not have exact information, use phrases such as “approximately” or “in my estimation”. Indicating that your answer is an approximation allows you to clarify if need be.
- Do not use extreme statements such terms as “never” and “always”. This may cause you to lose credibility if the claimant can demonstrate exceptions to your statement.
- Always, try and make factual statements. Such as “the claimant was aware of company policy through the company handbook given at the time of hire. We also have an acknowledgement of receipt signed by the employee”.
- Always ask for clarification if you do not fully understand a question. This can give you better understanding and allow you to answer appropriately.
- Object to irrelevant testimony or questions unless it is a question the Hearing Officer is asking.
- Have a note pad and pen so you are able to take notes during the hearing.
- If the Hearing Officer asked the question to the claimant, do not ask the same question to the claimant or a form of it.
- Always keep your cool. A calm, well-spoken, polite witness will make a more positive impression than a forceful, intimidating or rude witness. Never interrupt the Hearing Officer or claimant, even if you do not agree with what is being said. Instead, take notes and refer to them at a later time, when it is appropriate for you to do so. Portray an image of confidence to the Hearing Officer.
- If you are giving a closing statement, keep the statement short and to the point. You are not to summarize everything at that point. You might say something such as “due to the fact that the claimant violated our company attendance policy and they were warned previously about the attendance problem, knew their job was in jeopardy, the claimant was terminated for “just cause”.

## Hearing Decisions

A UC Review Commission Decision will be mailed to all interested parties. The decision is the hearing officer’s summary of the hearing and the ruling.

The unfavorable party has a right to appeal within 21 days of the decision's mailing date. An appeal if filed, is directed to the Board of Review. If CareWorks Consultants was involved in the hearing and considered an interested, the hearing representative at CareWorks Consultants will contact the employer to consult about the hearing. An appeal to the Board of Review will be filed if applicable. The appeal must contain very specific reasons as to why you feel this is an unfair decision. New facts cannot be presented at this level.

The Board of Review is an independent fact-finding committee established pursuant to the other Ohio unemployment compensation laws

If the decision remains unfavorable to the employer after appealing to the Board of Review, the employer may file a notice of appeal to a Court of Common Pleas. In this event, the hearing representative at CareWorks Consultants cannot assist in the appeal nor attend the hearing.

## Benefit Charges

When unemployment benefits are paid to a claimant, the cost of those benefits is proportionately charged to the unemployment accounts of all chargeable base period employers unless they have been granted relief through an earlier protest.

Proportional charging is when each employer is charged a percentage of the benefits paid, proportional to the amount of wages an employer paid the claimant during the base period. For example, if an employer paid 50 percent of the claimant's base period wages, then 50 percent of benefits paid could be charged to that employer's account.

Potential benefit charges are established at the time a valid unemployment claim is filed. If benefits are paid, the employer's account can remain chargeable for the entire benefit year, but only in proportion to the base period wages paid.

Only base period employers can be subject to charges.

When a claimant's reason for separation from employment is determined to be disqualifying no benefits can be paid and the employer's account will not be charged. If the claimant is found eligible, all base period employers are potentially chargeable. If one or all base period employers are relieved of their liability, their portion of the charges will be drawn from a mutual account.

The mutual account is separate and apart from the individual employer's account. Its primary purpose is to cover the cost of benefits paid to claimants who are not chargeable to individual employers. These costs are covered through a mutualized tax levied on all contributory employers.

When a claimant is determined eligible for unemployment benefits, and the employer's account is charged, the employer will be notified by the Notice of Benefits Paid and Charged to Employer. This form is issued monthly and shows weekly benefit amounts paid out and charged to the employer's account. This form contains the claimant's name, social security the weekly benefit amount paid, the date of the payment and the calendar week the payment was made.

If CareWorks Consultants is listed as the official address of record and receive your benefit

charges, they are entered into the system at CareWorks Consultants, matching the charge to the claim. If the charge is unwarranted based upon the claim information, the NFIB Unemployment Team member will issue a protest to ODJFS. The protest will be pursued until resolution. If applicable, a credit will be issued to the employer's account.

## Work Refusals

If an employee has filed for unemployment benefits and you make a valid work offer that is refused, immediately notify the processing center at ODJFS. If you are utilizing NFIB unemployment service at CareWorks Consultants, notify your claims examiner of this refusal and we will handle this matter for you.

An ideal means for making a work offer to an employee who is on layoff is by certified letter; however, sending a certified letter is generally only needed in cases when the employee is unable to be contacted by telephone or when the employee seems to be more interested in collecting unemployment benefits than working.

**Note:** ODJFS will not recognize a work offer left on an answering machine. It is best to speak to the employee directly.

Generally, speaking to the employee on the telephone or sending a letter through regular mail is a sufficient means for offering work to an employee.

Careful documentation, including dates and type of work offered must be submitted to ODJFS. This job offer generally needs to be the same type of work, same location and pay or the refusal can be considered a "good cause" refusal. This information also needs to be indicated in the information sent to ODJFS.

## Importance of a Company Policy

A company policy is an important business tool for companies of all sizes. For unemployment claims purpose, this is often of great importance to the employer in the event of a discharge as well as for general disciplinary purposes. A company policy provides the Employer with an opportunity to advise their employees of rules and expectations for the workplace. In addition to having a company policy, it is very important that the guidelines set forth in the policy are followed as closely as possible.

Items you may wish to discuss in a company policy include attendance and call off procedure, work rules, drugs and alcohol, harassment, safety and any other topic of everyday importance. These rules are not meant to be comprehensive, but rather a guideline for expectations and procedures. An important aspect of a company policy is progressive discipline. This is where employees are advised of what to expect if the rules set forth in a company policy are violated. Discipline may take the form of verbal warnings, written warnings, suspension/disciplinary lay-off, and termination.

Although some situations are severe enough to warrant immediate termination, generally it is important to follow the progressive disciplinary procedure set forth in the company policy. ODJFS views this as something on which the employees can rely and base expectations, a

chance to be made aware of their problematic behavior, and given time to correct it. Having employees sign an acknowledgement form at the time of hire as an indication that they have received, reviewed, and understand the policy is a great way to begin employment with mutual awareness of expectations.

Important reminder, although a company policy is a helpful tool for employers to use to protect themselves in the event of unemployment claims, in reaching a decision for “just cause” for termination, ODJFS is not strictly bound by the terms of a policy. Generally, ODJFS expects a company policy be rational, understandable and fairly applied to all employees.

For additional information on writing a company policy for your company visit NFIB's website at [www.nfib.com](http://www.nfib.com).

## Personnel Policies and Practices (General Information for Controlling Unemployment Costs)

This section will provide you with some recommendations on how to establish and administer personnel policies to assist you with controlling your unemployment costs.

### Personnel File

Due to the base period charging method, personnel files should be retained for at least two years. You will know within this time period if you are potentially liable in an unemployment claim. Keep accurate records of dates and details throughout the employment history.

### Publication of Company Rules

Ideally, each new employee should be provided a handbook containing company rules. A receipt for the handbook should be signed by the employee and placed in the employee's personnel file. In the absence of a handbook, rules should be posted in an area accessible and noticeable to all employees. Policies should be enforced and apply to all employees.

### Job Expectations

Employees should be provided with a written job description or be verbally told in detail of their job expectations. It is common for a job description to list the general duties but also include a statement such as “all other duties as assigned”.

### Required Work Schedule

Employees should be fully aware at the time of hire what hours they are expected to work. If overtime could ever be required, this needs to be clearly explained as well. A written document outlining this information is strongly recommended. If the employee requests a temporary change in hours which you grant, it is recommended that you put the temporary agreement in writing. Example: if the employee is required to work weekends but for a temporary time is granted relief of this, prepare a document for them to sign indicating that this is temporary.

### Absence Reporting

Employees should have a clear process to follow to get approved time off such as vacation or personal day. For unscheduled absences, employees should be informed who to call to report tardiness or absence. Instructions should be given to leave a message where they can be reached if the person they need to speak to is not available. Attendance records should

indicate whether or not an absence was properly reported. Consistent practices should be followed.

### Probationary Period

Determine as quickly as possible whether a new employee is capable of performing the job they were hired to do. This can normally be accomplished in a period between 30 to 90 days. Prompt release of an employee determined to be unqualified or unsuitable helps minimize your unemployment costs.

### Discharge

Complete facts should be gathered before a worker is discharged. The individual responsible for the discharge must be certain the action being taken is the result of firsthand knowledge and not hearsay information. If you are later faced with fighting an unemployment claim, the burden of proof to show “just cause” falls solely onto the employer. The discharge should occur the same day or within the next day of the final incident. Any delay in discharging an employee after the final incident creates doubt to the ODJFS and further explanation will be requested.

#### Prior to a discharge be sure:

- Employee knew what was expected. Expectations can be given by providing clear and proper instructions on job procedures and tasks.
- Counseling and warnings were given. Be sure efforts were made to help the employee correct the problem and standards of conduct were clearly defined.
- Employee knew the consequences of their actions. This can be accomplished through written warnings to the employee.
- Be sure the final incident clearly violates a previously defined rule or policy. ODJFS places a great emphasis on the final incident that causes the employee’s discharge. Example: if the employee is being terminated for excessive absenteeism, avoid terminating if the final absence is a circumstance beyond their control such as family emergency or under a doctor’s care.

### Documentation

Written documentation should include clear and concise facts surrounding each incident and should always include dates on which warnings were given, as well as identify specific time frames that were given to an employee to show improvement. Such documentation provides the facts necessary for avoiding an unwarranted claim for benefits.

### Warnings

Written warnings are the best method when disciplinary actions must be taken with an employee. When a warning is issued, complete facts should be documented and signed by the employee when possible. Unless a serious offense occurs, an employee should be warned at least once, preferably twice, and informed in writing that the next occurrence may result in discharge. If verbal warnings are given in place of a written warning, the conversation and the date it occurred should be noted in their personnel file. Any time possible, a witness needs to be present when a verbal or written warning is being given. Having the witness promptly write down the details of what they saw and heard are also very helpful. ODJFS wants to see that an employee knew their job was in jeopardy prior to the discharge.

### Voluntary Quit

When the employee initiates the ending of the employment generally unemployment benefits are denied. To avoid ODJFS ruling a voluntary quit as "good cause" the following personnel practices are recommended.

#### **Notice Given**

Once a notice of a voluntary quit is given, an employee should be permitted to work through the notice or paid throughout the duration of their notice. This prevents a dispute when ODJFS is establishing whether the employee quit or was discharged. If the employer puts the claimant out of work sooner than the claimant requested, ODJFS will generally allow unemployment benefits. Benefits allowed under these conditions are allowed for the duration of the claim (generally 26 weeks) and not just the duration of the notice.

#### **Failure to Report**

When an employee stops reporting to work and fails to call in, the ODJFS will generally rule this as a voluntary quit after three consecutive days of this behavior. If the number of days is less than three and the claimant wants to return but is not allowed, this is often ruled as a discharge. Previous documented incident(s) of "no call, no show" can justify the discharge.

#### **Walked off the Job**

If an incident occurs and the employee "walks off the job" and does not return, request any witnesses to the incident to promptly write up a statement of what they saw and heard during the incident. If the employee attempts to return the next day and is not allowed, the ODJFS will generally rule this as a discharge.

#### **Quit Due to Medical**

Generally when someone can medically prove that they are no longer able to do your job but can seek a different type of work within their medical restrictions, unemployment benefits will most often be granted. To try to prevent this, the employer should ask to see the medical restrictions and work the employee within these restrictions.

#### **Quit Due to Change in Terms of Hire**

If the hiring terms change or the employer failed to meet the contract of hire in regards to hours, wages or location, unemployment benefits will often be allowed.

## **Conclusion**

Thank you for taking the time to read this handbook. The NFIB Unemployment Team at CareWorks Consultants hopes that you found the information helpful to your workplace. If we can be of any assistance to your business please call us toll-free, at 1-866-780-NFIB (6342).