

# Requesting Relief of Benefit Charges

Unemployment Insurance Tax and Wage Administration



Employment Security Department

WASHINGTON STATE

**Keep your unemployment insurance tax rates down. You may be able to lower your rates if you can show why we should not charge your account for some unemployment benefits. To request relief, you must respond to the enclosed forms and request relief of benefit charges.**

If you are a **regular taxpaying employer\***, you may be eligible for relief of benefit charges depending on why the claimant left work. If we grant you relief of benefit charges, it will not usually affect the claimant's eligibility for benefits or the amount of benefits he or she receives. However, your tax rate may improve or may not be affected by the payment of benefits.

## For what reasons can I request relief?

In general, you can be relieved of charges for benefits paid to a former employee when he or she:

- Voluntarily quit, and you did not cause the quit.
- Was discharged for misconduct or gross misconduct connected with the work.
- Was laid off as a direct result of a catastrophe such as fire, flood, or other natural disaster.
- Continues working for you on a permanent part-time basis, but is no longer employed by another base year employer he or she worked for while also working for you.
- Was laid off after being hired to replace an activated military reserve or guard member when the military person is deactivated and returns to employment.

## How am I notified that I may be charged?

We use two forms to notify you when a claim is filed:

1. The *Notice to Employer – Claimant's Separation Statement* (EMS 5361) tells you the reason the claimant gave for no longer working for you. If you disagree with the reason given, complete and return the form to the address provided. We only send this form if there is a question about why the person is no longer working or if you are the last employer.
2. The *Notice to Base Year Employer* (EMS 166) notifies you that we may charge your account for benefits paid to the listed employee(s). We send this form to all base year employers.

## How can I request relief of benefit charges?

You must request relief of benefit charges in writing:

- **Complete and return EMS 5361** by mail or fax within 10 days of the date the form was mailed to you. Please do not both mail and fax your reply—duplicates could delay your request.
- **Use EMS 166.** Your request must be postmarked or received **within 30 days of the mailing date of the first EMS 166** we send you with the charges shown.  
Note: If we recalculate the amount of the claimant's benefits, you may receive an additional EMS 166 for the claim. You do **not** need to request relief of charges a second time if the date in column "2" is the same as the date on any prior EMS 166 you received.
- Your request for relief must include the dates the claimant worked for you and detailed information about the reason(s) he or she is no longer working.

## What else do I need to know?

**Last employer:** If a claimant quits a job to work for you and then becomes unemployed by your business, you could be charged 100 percent of the benefits paid. If you disagree with any charges, you may appeal.

**Business acquisitions:** If you acquire all or any portion of another business, we will charge you for unemployment benefits paid based on past employment with the original business.

**Claimants disqualified for gross misconduct:** If we decide you discharged the claimant because of gross misconduct connected with the work, the claimant will lose wage credits based on employment with you and you will be relieved of charges for the benefits.

"Gross misconduct" means the claimant (1) was convicted of a criminal act, or admitted committing a criminal act to a competent authority,\*\* or (2) was discharged for action(s) showing a flagrant and wanton disregard of the rights of his or her employer or co-workers.

The department relies on you to provide us with information about a claimant's conviction of or admission to a crime. Please provide complete details about the job separation on the EMS 5361. You must also send proof to the unemployment claims center within **six months** of the conviction or admission if it happens after the claimant files for unemployment benefits.

## If you first learned that the claimant applied for benefits when you received EMS 166:

- Send any proof of the conviction or admission to the Experience Rating/Benefit Charging Unit at the address on EMS 166.
- Contact the unemployment claims center if you believe any of the claimants listed should not be eligible for benefits for any reason besides gross misconduct.

\* Does not include taxable local governments, taxable political subdivisions, and reimbursable employers.

\*\* Includes the court, prosecuting attorney, law enforcement, administrative law judge, or regulatory agency. Does not include you or the Employment Security Department.

*The Employment Security Department is an equal opportunity employer and provider of programs and services. Auxiliary aids and services are available upon request to people with disabilities. Auxiliary aids may include qualified interpreters and telecommunication devices (TTY) for hearing or speech impaired individuals. Individuals with limited English proficiency may request interpretive services free of charge to the customer in order to conduct business with the department.*

## Reading the data

1. CLAIMANT'S NAME AND SOCIAL SECURITY NUMBER	2. CLAIMS CENTER NUMBER & EFFECTIVE DATE	3. WBA MBP	4. 1 <sup>ST</sup> AND LAST BASE YEAR QUARTERS	5. HOURS AND WAGES REPORTED BY YOUR FIRM	6. TOTAL REPORTED BY ALL EMPLOYERS	7. YOUR % OF BASE YEAR WAGES	8. CODES
<p><b>1. Claimant's name and SSN:</b> If you do not recognize a name, please check the Social Security number (SSN). Inform the department if you reported wages for a different person under the same number. Please verify your employee's SSN, if possible. Consider maiden and hyphenated name variations.</p> <p><b>2. Claims center number and effective date:</b> The claimant's assigned claims center number and the effective date of claim, which is the Sunday of the week the claimant applied for benefits. Benefits may be claimed for one year after applying.</p> <p><b>3. WBA</b> is the claimant's Weekly Benefit Amount. <b>MBP</b> is the Maximum Benefits Payable on the claimant's regular claim. The WBA and MBP are used to calculate charges to your experience rating account.</p> <p><b>4. Base year quarters:</b> The four quarters used to establish the claim. If quarters are shown as 4/10 through 3/11, the base year quarters are the 4<sup>th</sup> quarter of 2010 and the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters of 2011. A base year is the first four of the last five completed quarters prior to applying for benefits. If a claimant cannot qualify with those quarters, he or she may use the last four completed quarters. Quarters begin on the first Sunday of January, April, July and October.</p> <p><b>5. Hours and wages reported by your firm:</b> The total hours worked and gross wages paid that you reported for the quarters indicated.</p>	<p><b>6. Total reported by all employers:</b> Total wages reported by all the claimant's base year employers.</p> <p><b>7. Your % of base year wages:</b> Your percentage of the claimant's total gross base year wages. If the percentage shown is 0.00, we are charging the benefits to another employer and will not charge your account.</p> <p><b>8. Codes:</b></p> <p>(1)= We computed the hours based on the current state minimum wage at the time the base year wages were earned because your firm did not report "hours worked" for all or part of the base year. You cannot appeal this computation.</p> <p style="padding-left: 20px;">If you submit another report showing the correct number of hours worked, it may change whether the claim is valid. We can penalize you for failing to report hours. We can also charge you for 100 percent of the benefits paid if your corrected report makes the claim invalid. (To establish a valid claim, a claimant needs 680 hours of base year employment.)</p> <p>(2)= We revised the claimant's base year wage record. This may have changed the claimant's eligibility for benefits or your percentage of his or her base year earnings.</p> <p>(3)= We paid the claimant unemployment benefits based on the wages or hours you reported to us. You later corrected the wages or hours, making the claimant ineligible or reducing their benefit amount and causing an overpayment. Since you caused the overpayment by your inaccurate report, we may charge the experience rating account of your business for 100 percent of the benefits paid.</p>	<p>(4)= Temporary total disability. The base year may include work performed up to six years ago.</p> <p>(5)= Relief of charges has been granted. Your experience rating account will not be charged for these benefits. <b>No further action is needed.</b></p> <p>(6)= The claimant filed for unemployment benefits in another state and we transferred the wages to the state indicated.</p> <p>(7)=The claimant applied for extended benefits. The federal government and state each pay 50 percent of these benefits for regular taxable employers.* Reimbursable employers must pay their percentages of the state's share. Governmental employers and tribal employers pay 100% of the extended benefits.</p> <p>*The federal government is paying 100 percent of the cost for extended benefits for regular taxable and private non-profit reimbursable employers from February 22, 2009 through January 7, 2012.</p> <p>(8)=The claimant applied for training benefits. For claims effective before April 5, 2009, employers are liable for their percentage of training benefits paid.</p> <p style="padding-left: 20px;">For claims effective April 5, 2009, or after, we will charge reimbursable employers, taxable local governments, political subdivisions, and tribal employers for training benefits paid.</p>					

**If you want to contact former employee(s) about reemployment, call the Employment Security Department's Records Disclosure Unit at 360-292-6036.**