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UNEMPLOYMENT INSURANCE AND THE CORONAVIRUS

By Lisa F. Harper, Esq. in conversation with the DOL

Is an employee entitled to unemployment insurance (“UI”) benefits if the employee is laid off due to coronavirus related issues?

Yes, employees, subject to certain limited eligibility requirements, are entitled to what is called partial unemployment insurance benefits in such a situation.

Who files for the employee’s partial UI benefits in connection with a layoff or furlough related to coronavirus?

The employer files for the employee. The employer can file for each employee separately or the DOL provides an excel spreadsheet on which the employer can place multiple employee names and information and submit at one time.

Does the employer need any kind of consent from the employee to file for the partial UI benefits?

No

With respect to partial UI benefits, does the employer only need to file one initial time for each employee or does the employer have to file for each employee each week?

Partial claims must be filed each week for employees to receive benefits for that week. The DOL will provide a spreadsheet through the Employer Portal allowing for multiple employees to be submitted at one time. If the employer submits the employee information in a spreadsheet, the information in the spreadsheet will only need to be updated each week and uploaded. If the employer submits the employees individually, then all of the information for each employee will need to be entered each week.

When should an employer file for partial benefits for employees?

The employer can file a temporary claim on behalf of employees at any time, but as soon as possible.

How many weeks do the partial UI benefits last?

14 weeks is the maximum period allowed for UI benefits. However, the federal government is looking to extend that period if necessary in this health crisis.



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How much can an employee expect to receive in partial UI benefits and how are they calculated?

Benefits are based on the past 18 months of reported wages and range from \$55 to \$365 which is set by the state government.

What should employers tell employees about how employees should expect to receive the benefits?

Benefits are issued by direct deposit or DOL issued UI Way 2 Go debit card but initial benefits are expected to be paid by UI Way to Go debit card.

Does vacation or other paid time off have to be exhausted first before an employee is entitled to partial UI benefits?

This depends on what your employee manual states as company policy.

The UI application asks if the employee has earned at least \$7,300. What period of time does that cover?

From the date of hire.

Are partial UI benefits available to exempt and non-exempt employees, and to employees on a fluctuating work week?

Yes to all.

Are partial UI benefits available for part time employee?.

Yes, this is true per Emergency Rule 300-2-4-0.4, containing Rule 300-2-4-.09(1).

Do the temporary/partial UI benefits apply to independent contractors?

No, a bona fide independent contractor that is not paying into the trust fund is not eligible for UI benefits.

What is the expected wait time until the employees can expect to receive these partial UI benefits?

48 business hours from the time of the claim submission.



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Do employees receiving partial UI benefits have to look for work to retain UI benefits or to report to the DOL.

No they do not. That requirement is waived during this health crisis.

Is the quickest way to get the employees benefits through the partial benefits UI regs rather than termination of employment and/or through mass layoff (DOL forms 402 & 402A).

Yes, the quickest way to get employees benefits is to file a partial claim. [In addition](#), the emergency rule states employers must file partial claims online for temporary layoffs due to coronavirus.

What is the intent of the language in the instructions that says that employers will be liable for payment back for these benefits if they are claimed wrongfully.

The emergency rule states employers must file partial claims online for temporary layoffs due to coronavirus. Any employer found to be in violation of this rule will be required to repay the Commissioner for the unemployment fund the full amount of benefits paid to the employee. Employers will not be charged for partial claims submitted for this reason or for unintentional errors made in the submissions.

Will there be the imposition of fines or fees or penalties for missing deadlines in connection with seeking partial UI benefits?

Employers will not be charged for partial claims filed as a result of coronavirus. Generally, deadline and penalties only potentially apply to claims initiated by individuals where the DOL requests information from the employer by a deadline.