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Significant Changes to New Jersey's Unemployment Compensation Law Will Take Effect on July 31, 2023

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During the Pandemic, New Jersey's unemployment compensation system was heavily criticized by both employers and those who were separated from employment. As a result, Governor Phil Murphy has signed into law some [new regulations](#) that will substantially change the procedures followed by employers in an effort to make the unemployment system more efficient.

Reporting Requirements Will Change

Employers are required to provide every separated employee with [Form BC-10](#), which provides information about unemployment benefits. However, starting July 31, 2023, employers will be required to "immediately and simultaneously" send the New Jersey Department of Labor & Workforce Development ("NJLWD"), Division of Unemployment Insurance ("Division"), a copy of the Form BC-10 that was provided to the separated employee.

In addition, the Division will create a new form that employers will be required to complete with information about an employee's separation from employment. Employers must provide this completed form regardless of whether the separated employee applies for unemployment benefits. Employers should submit this new form at the same time as the copy of the BC-10 Form to the Division to be compliant with the new unemployment requirements. Employers must also send a completed copy of the new form to the employee who is separated from employment. Previously, employees were not privy to any of the information provided to the Unemployment Division by employers.

Notification and Appeal Deadlines Will Change

- The Division will now have 7 calendar days from the date that the new information form is sent to the Division, or the date the separated employee applies for benefits, whichever is earliest, to obtain any missing separation information.
- The Division will now have 3 weeks from the date a claim is received to make the initial benefits determination.
- An employer may no longer retroactively contest a benefits determination if the employer is late in providing separation information. The employer can only contest the benefits determination for workweeks that occur after the separation information is received.
- Employers will now have only 7 days from confirmed receipt of an initial benefits decision to appeal the initial determination of benefits.
- Employees will now have up to 21 days from the date the initial benefits decision was mailed to appeal an initial benefits determination.

Penalties and Overpayment Consequences Will Change

The new law subjects an employer to increased penalties, including a \$500 fine or 25% of the amount of unemployment benefits withheld in two situations. The Division will apply this penalty to an employer who “willfully fails or refuses to furnish any reports or information,” including the separation information now required to be submitted by the employer. In addition, any employer who knowingly makes a false statement or knowingly fails to disclose a material fact to avoid or reduce the payment of unemployment benefits will be subject to the penalty.

Previously, an employee who received an overpayment would have to pay back the amount of the overpayment. The new law allocates liability. If it is found that an employer’s error resulted in an overpayment, the employer’s unemployment account will be charged for the error. If the separated employee caused the error, then the separated employee must pay back the Division. If the Division causes the error, the overpayment will be deducted from the individual’s unemployment benefits on the next occasion the employee is separated from a job (although after 4 years, the overpayment is waived).

TAKEAWAY: Employers must pay attention to the amendments to the Unemployment Compensation Law that begins on July 31. The changes include additional requirements that employers must follow and substantially increased penalties for noncompliance. If you are an employer and need help navigating the changes to the Unemployment Compensation Law or any other employment laws, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team.

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