



HANDBOOK

Ohio County Commissioners

Published by: County Commissioners Association of Ohio

37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195
Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

CHAPTER 70

UNEMPLOYMENT COMPENSATION

Latest Revision
1994

70.01 INTRODUCTION

This chapter will deal with unemployment compensation and the county obligation as an employer. Unemployment compensation is a rather complex issue and this chapter will merely summarize the law. Further information should be obtained from Chapter 4141 of the Revised Code, or the Ohio Bureau of Employment Services (OBES). OBES has permanent, full-time offices in many counties, from which it serves every community in Ohio. A three member board of review hears and decides appeals from decisions made on claims and taxes.

Ohio's system of unemployment compensation is financed by a payroll tax levied on employers of one or more workers and the reimbursement of the federal share of extended benefits. Tax payments (termed "contributions" and so referred to in this chapter) are collected by OBES and deposited in the Ohio Unemployment Trust Fund. This fund is used solely for the payment of unemployment benefits. Funds for the administration of the bureau are allocated by the federal government and are derived from a federal tax. For most counties, billings are only received as claims are paid. These counties are known as "reimbursing employers" and money should be reserved for these billings at the beginning of each fiscal year.

70.02 CREDIT WEEKS NEEDED TO QUALIFY

Holiday, vacation, severance, or dismissal pay paid with respect to a week in the base period must be included in determining earnings. A qualifying week is one in which some (any amount) wages are earned. To have an application allowed, a claimant must have had at least 20 qualifying weeks in the regular or alternate base period with earnings averaging 37 times the Ohio minimum hourly wage. In certain seasonal occupations, an

applicant may qualify for limited benefits with less than twenty credit weeks. The following definitions are essential to understand unemployment compensation:

1. **BASE PERIOD** - The base period refers to the first four of the last five completed calendar quarters. If an individual does not have sufficient qualifying employment during the base period, an alternate base period consisting of the most recent four completed calendar quarters will be used. Only wages earned in covered employment in the base period can be used in determining benefits.
2. **BENEFIT YEAR** - The benefit year is a period of 52 weeks following the date of an allowed application for unemployment benefits. Benefit rights established by an allowed application are in effect throughout the benefit year. The benefit year begins on the Sunday of the week in which the application is filed unless there has been partial unemployment in one or more of the four weeks before the filing. When this partial unemployment occurs, the benefit year can be back dated to include the prior partial weeks.
3. **COVERED EMPLOYMENT** - Except for employees of hospitals and community colleges operated by the county, only county employees in the classified civil service are covered by the unemployment compensation law. Counties should assume that all employees are covered unless specifically exempted by law, due to rulings issued by OBES.

Also important is Section 4141.01(B)(3)(S) of the Revised Code because it excludes employees who are "part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency..."

70.03 BASIC PROGRAM DETAILS AND PROCEDURES

All documents pertaining to unemployment compensation are directed to the county auditor unless the county has requested that some other individual be contacted. On a quarterly basis the county must report the number of employees covered by the law and the amount of wages paid on a form provided by OBES.

If, during any quarter, unemployment benefits are paid to former county employees, the county is sent an invoice and is required to reimburse the state within 30 days.

When a former county employee applies for unemployment benefits, where the county is the most recent separating employer, a request for separation information form will be mailed to the county. It is important that the appropriate department supply the requested information to the state, because this is the primary information used in determining eligibility. If these forms are sent to only one county office, it might be well to establish a system whereby the former employee's direct supervisor provides the required information. The requested information must be returned within 10 days from the date mailed--not

received. If this report is not returned within the time limit, the claimant's statement of reasons for separation may be used to determine benefits.

If the claimant's employment with the county was not in the classified service, it is important that the questions on the form as to whether claimant's employment was covered is answered "no". The separation information requested on the form must be furnished. Some employees that have resigned or been terminated may be entitled to benefits. The county must question the validity of any claim or eligibility will probably be allowed.

A county may be an interested party to an unemployment claim if the claimant has worked for the county in the past year. Even though the county may not be the most recent employer, there may be a potential financial liability. Once a determination of eligibility is made, OBES mails a copy of each determination to the county. The county has various appeal rights of eligibility determinations. Appeals must adhere to statutory time limits. It is not, for example, appropriate to complain about payments at the time quarterly billings are received if the county has not previously questioned the claim or appealed an eligibility determination.

The determination of monetary or benefit rights, is usually not appealed by a county unless the claimant's employment with the county was not covered or it appears that the benefit amount would be excessive based on wage information during the base period. This is because counties are considered "reimbursing employers" by OBES. Reimbursing employers are potentially chargeable for benefits in all separations.

Each time a payment is made for which the county is responsible, a form is mailed to the county. These notices identify the name and social security number of the claimant, the date paid, the calendar week of unemployment with respect to which the payment applies, and the amount of the payment the county will be responsible to reimburse. It is the sum of these charges that will appear on the quarterly billing.

When an employee is terminated without prior notice or discipline, the employer may not have cause to lose the case at the State Personnel Board of Review, but may lose upon review by the local OBES office.

70.04 UNEMPLOYMENT CHARGES TO REIMBURSING EMPLOYERS

"Reimbursing employers" are potentially chargeable for benefits in all separations where individuals file unemployment claims after having been employed by them, regardless of the reason for separation.

Following is an explanation of the reason direct reimbursing employers are chargeable in all other unemployment claims:

Most private employers make "contributions" (pay taxes) on the basis of a percentage of their payrolls. These contributions are made every quarter, and of the amount paid in

contributions, a portion is funneled by the state into what is called the "mutual account". This is a fund maintained by the state to pay benefits to eligible claimants when those benefits cannot for some reason be charged to a particular employer (this is further explained below). Benefits paid to claimants who are separated from these employers for non-disqualifying reasons (lack of work, etc.) are charged against the employer's individual account into which he pays his contributions.

While private employers make contributions, public employers (such as counties, cities, villages, school districts and non-profit organizations) are "reimbursing" employers, and as such are billed on a monthly basis by the Bureau for the exact amount paid to claimants (there is no quarterly unemployment tax on the public employer's payroll). No portion of the amount paid by a reimbursing employer is put into the mutual account.

When a separation from employment is ultimately determined by the OBES to be disqualifying, whether by initial determination or after hearing, and regardless of whether the employer was a private company or a public employer, the claimant, in order to remove that disqualification, must return to work somewhere, work at least six weeks, and earn at least \$726. If the claimant is then separated from that employment for non-disqualifying reasons (i.e., lack of work, etc.), he will then be eligible for unemployment benefits.

Benefits are paid based on wages earned during the base period (the first four of the last five completed calendar quarters preceding the date the claimant initially files a claim for benefits). All chargeable base period employers are assessed these unemployment benefits concurrently, with each employer charged for its proportionate amount of the weekly benefit paid, as previously notified on a "Determination of Benefits Rights" mailed to the employer by the OBES.

Base period private employers from whom the separation was disqualifying, although the claimant is now eligible for benefits because he has removed the disqualification by returning to work somewhere else and has been laid off, are not charged for the benefits being paid to the claimant; the benefits are charged to the mutual account.

Reimbursing employers, who make no contributions into the mutual account are charged, regardless of the reason for separation. The benefits must be charged somewhere, and the law says that because reimbursers do not contribute to the mutual account, they may derive no benefit from it. The benefits are chargeable if the qualifying event includes employment with the county.

Counties frequently overlook resources which are available to them at little or no cost. There are several programs which are offered to the county which could assist in cost containment. One is keeping in close contact with OBES and making use of their expertise and being involved in their programs, such as joining the job service employer committee in your county.

70.05 COUNTY COORDINATION IS IMPORTANT

While most documents from OBES will be addressed to the county auditor or to some agent or agency designated by the county, requests for wage and separation information prepared in a local OBES office may be addressed to the department or office where the claimant indicated employment.

To have an effective system, coordination at the county level is vital. Each county should develop a procedure so that the commissioners are aware of the costs being incurred; it is also important that OBES is quickly furnished with wage and separation information by the former employee's supervisor. Commissioners should also make appointments and take personnel actions in a manner that makes it clear if the employee is covered. An individual to work full time in this area and in other personnel functions may be needed by more counties.

70.06 MANAGING THE PROGRAM

For many counties, 26 weeks of unemployment compensation can be major expenditure, especially when this amount has to be levied against a current payroll.

Many officials figure it is less costly to fire someone and pay unemployment than to keep a undesirable person on the payroll. Many times this happens and commissioners are unaware that the liability exists until the budget for the following year is completed. In order to avoid this situation, the following are some recommendations for controlling costs:

1. Request copies of all unemployment compensation correspondence from the county auditor; especially important is receiving copies of billings.
2. Brief officials on mandatory progressive discipline. The easiest way to lose an unemployment claim is to fire an employee illegally.
3. Request assistance from the county prosecutor at appeal hearings. If their attendance is impossible, request that they review the facts of the case and prepare another official for the hearing. There are also consulting firms who will represent the county.
4. Appeal all decisions that are questionable. Employees often make statements which do not always represent what really happened.
5. Designate one person in the county to communicate with the local OBES office. This specific contact person will provide continuity.
6. Establish a tracking system for those persons receiving unemployment and the cost of this benefit. This allows the county to budget for this liability based on experience. Also, any employee eligible for unemployment compensation is also

eligible for hospitalization benefits on a bill-at-home basis for up to six months. The employee must officially waive this eligibility.

These protections are fairly simple to set up and maintain. However, if the program is not managed, the financial liability can become significant.

70.07 OTHER INFORMATION

This chapter has not discussed eligibility criteria; however, it should be stressed that, with proper documentation, OBES will generally accept the county's contention on the separation information form. The claimant, however, also has appeal rights. It is very important to process unemployment forms properly. The fact that the employee resigned or was fired also may not relieve the county of responsibility of reimbursing for unemployment payments. OBES rules individually on the eligibility of claims. An employee that resigns may file for benefits claiming "coercion or harassment", and receive unemployment benefits.

Although benefits vary with the number of dependents, they are generally 50 percent of the employee's average weekly wage during the base period, up to specific ceilings which are adjusted annually. As a general rule, at least 20 weeks of employment during the last year is required for basic qualification. These standards and the details of administration change periodically. It is wise to check such requirements with your local OBES office. OBES also publishes a manual which explains certain benefit topics in greater detail than space allows here. This manual should be obtained by each county in order to fully understand how the program works.