Unemployment Insurance

Christina Petsoulis - Associate Attorney
Angel Guarneros - Law Clerk

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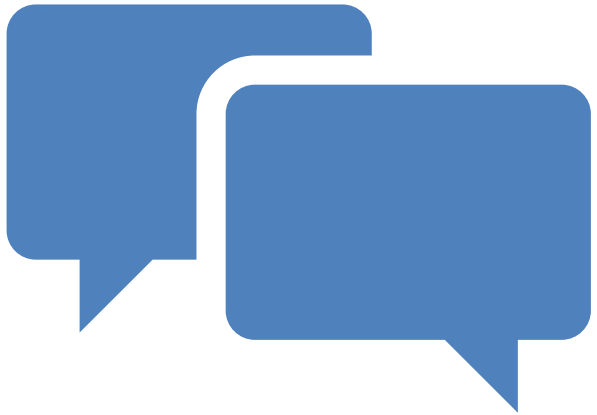

Please use the Q&A function for any questions

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Agenda

- Introduction to Unemployment Insurance Benefits
- City Payments
- Unemployment Insurance
  - Eligibility
  - Ineligibility
- Preventing UI Claims
- Appeals
- Questions?

Unemployment Insurance Benefits

- Unemployment insurance provides benefits to workers who become unemployed through no fault of their own.
  - Full-time and seasonal employees are covered so long as they meet general eligibility.

Source: Minnesota Unemployment Insurance Portal

Process

The applicant applies and the employer is notified. DEED will request information from the employer.

DEED will make a determination based on the information provided to them.

Either employer or employee may appeal.

City Payments

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City Payments

- Unlike private sector employers, the most Minnesota cities pay for unemployment insurance on a reimbursement basis.
- The state of Minnesota, or its political subdivisions, pay the Minnesota Unemployment Insurance Trust Fund an amount that is equal to the employment benefits paid to its former employees.

Source: Minnesota Statute § 268.051

How is this Calculated?

- Determining the base period of employment.
  - The base period is the first four of the last five calendar quarters preceding the week.
- The weekly benefit amount is the higher of 50% of the individual's average weekly wage during either the high quarter of the base period or the total base period.
  - The maximum amount of benefit is the lesser of 26 times the individual's weekly benefit amount or 1/3 of the individual's total base period wages.
- The information provided here is only an estimation of the benefit. Calculating actual benefits is more complex and determined by statute.

Source: Minnesota Statute § 268.07

UI Benefits: Eligibility and Ineligibility

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Eligibility and Ineligibility

- **Eligibility**:
  - General statutory eligibility
  - Quit because of a good reason caused by the employer
- **Ineligibility**:
  - An employee who quits employment
  - Employment misconduct

Eligibility

Minn. Stat. § 268.085

- Subdivision 1. General eligibility
- § 268.095, subdivision 3: Exception

Eligibility

- General requirements for eligibility
  - Employees working 32+ hours
  - Seasonal employees
- Eligible based on a quit due to a good reason caused by the employer:
  - (1) that is **directly related to the employment** and for which the **employer is responsible**;
  - (2) that is **adverse to the worker**; and
  - (3) that would compel an **average, reasonable worker** to quit and become unemployed **rather than remaining in the employment**.

Source: Minnesota Statute §§ 268.085, 268.095

What Courts Consider for Good Cause

- In determining what may constitute good cause for refusing to accept an employer's working conditions, the courts consider:
  (1) whether the employee's reason for quitting was compelling and
  (2) whether it was real and not imaginary, substantial and not trifling, reasonable, and not whimsical or capricious.

Source: Ferguson v. Department of Employment Services, 311 Minn. 34

Example 1: Good Cause Reason

- In Dura Supreme v. Kienholz, 381 N.W.2d 92, an employee applied for unemployment insurance benefits after quitting based on alleged sexual harassment by a co-worker, of which her employer was aware of. The supervisor gave no assurance that the problem would be corrected. Rather, the supervisor told the employee to take it as a joke.

Example 1: Good Cause Reason

- Court held that while the complaining employee must give the employer an opportunity to take the appropriate steps before quitting the employment, but if upon the report, an employee is given no assurance the problem will be corrected, the employee has a good reason to quit.

Example 2: Not a Good Cause Reason

- In Trego v. Hennepin County Family Day Care Asso., 409 N.W.2d 23, an employee argued that unfavorable working conditions constituted good cause to resign. The employee's resignation was based on her dissatisfaction with the Employer's choice of interim director.

Example 2: Not a Good Cause Reason

- The Court found where an employee becomes dissatisfied with the board's choice of interim director, it is not enough to constitute "good cause attributable to the employer."

Example 2: Not a Good Cause Reason

- In Portz v. Pipestone Skelgas, 397 N.W.2d 12, an employee was personally dissatisfied with the working conditions and favoritism he alleged was shown to other employees and quit, alleging good cause reason caused by the employer.

Example 2: Not a Good Cause Reason

- The court found that the employee didn’t have good cause reason caused by the employer to quit.

Ineligibility

Minn. Stat. § 268.095

Subdivision 1. Quit

Subdivision 6. Misconduct

Ineligibility Based on a Quit

- An employee who voluntarily quits a job is disqualified from receiving unemployment benefits.
  - Except when the applicant quit employment because of a good reason caused by the employer.

Source: § 268.095, subdivision 1.

Termination for Employment Misconduct

- Employment misconduct is any **intentional conduct**, on the job or off the job, that **disregards the standards** of behavior that **an employer has the right to expect** of the employee or disregards the employee's duties and obligations to the employer.

Source: § 268.095, subdivision 6.

What Courts Consider for Misconduct

- The Minnesota Supreme Court looks to:

  (1) whether an employee **deliberately violated standards of behavior** which the employer has a right to expect of its employee

  (2) whether an **employee's conduct adversely affected the business** or other employee's morale and

  (3) whether an employee **ignored past warnings**.

Source: *Ress v. Abbott Northwestern Hospital, Inc.*, 448 N.W.2d 519.

Example 1: Misconduct

- In *McGowan v. Executive Express Transp. Enterprises, Inc.*, 420 N.W.2d 592, an employee, employed as a delivery driver, was terminated for refusing to pick up a personal prescription for her supervisor, a responsibility within his job description.

Example 1: Misconduct

- The Court found that, in general, refusing to abide by an employer's reasonable policies and requests amounts to disqualifying misconduct.
- In *Ress v. Abbott Northwestern Hospital, Inc.*, 448 N.W.2d 519, the Court explained that refusing to run a personal errand for the employer in a small business can constitute misconduct where the employee's refusal adversely affects the company's operations.

Example 2: Misconduct

- In *Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 316 (Minn. 2011), an employee was discharged for violation of the employer's policy, requiring employees to notify a supervisor 2 hours prior to the start of a shift if they were going to be absent or late. After excessive absentees and tardiness, the employer terminated the employee for misconduct. The employee applied for unemployment benefits.

Example 2: Misconduct

- The Supreme Court of Minnesota, held that the employee violated the employer's standards of behavior. The record showed that the employee was aware and knew he was expected to follow the policy.

Appealing Determinations

- The Process of Appealing Determinations
- Preparing for the Appeal Hearing
  - Witness Preparation
  - Etc.
- Tips for Testifying

Process of Appealing Determinations

Once a determination has been made, appeals must be filed electronically, mailed, or faxed within the timeframe specified on the determination to be appealed.

The hearing will be scheduled with an Unemployment Law Judge. Hearings are conducted by phone.

- Unless one's situation makes it impractical to do so.

Any Decision issued by an Unemployment Law Judge may be reviewed by the same judge if a Request for Reconsideration is filed within **20 calendar days** of the mail date of the Decision.

Preparing for the Appeal Hearing

- Witness preparation
- Review information
- Prepare documentation surrounding the employee's termination

Tips for Testifying

- Keep in mind you are telling a story.
- Be honest.
- Be concise and remember to answer what is asked.

Preventing UI Claims

Removal Process

- Documentation

Resignation

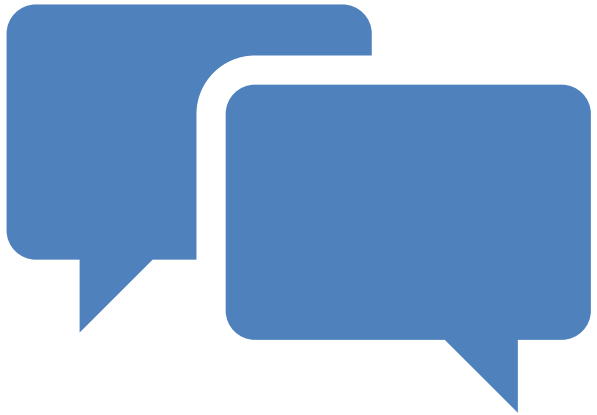
- Clear and concise

Removal Process

- It is best practice to document any and all issues with performance in detail.
- Prepare to present these to the employee prior to a meeting with the employee.

Resignation

- If the resignation is verbal, ensure the employee fills out a form of resignation.
- Acknowledge the employee's resignation in writing.
- The recommendation for termination is clear and understandable.
- Make sure all options are clearly understood by the employee and the outcomes that follow each option.



Any Questions?

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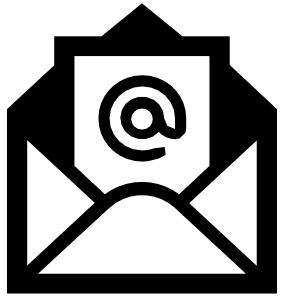
Upcoming Events

- Labor and employment laws, grievances, complaints, and lawsuits update: **June 15**
- Work-related injury and disability landscape: **June 20**
- Workforce and compensation tools: **June 27**

Contact

Christina Petsoulis

ccpetsoulis@flaherty-hood.com

Office: (651) 259-1916