REASONABLE ASSURANCE UPDATE
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April 20, 2023

AGENDA

- Introductions
- Overview of PSUP
- Unemployment Pool Benefits & Services
- Reasonable Assurance Review & Update
  - COVID-19 and the 2022-2023 School Year
  - Summer 2023 and beyond
- Q & A

CORE SERVICES TO UNEMPLOYMENT POOL MEMBERS

- Serve as school district intermediary with the Employment Security Department (ESD).
- Intake point for all ESD correspondence on behalf of school districts.
- Claims handling and coordination.
- Claims attorney as staff to provide member consultation and oversee hearings and appeals.
- Reporting and analysis of claims and financial data.
- Consultation and training.
UNEMPLOYMENT INSURANCE

- Partially replaces regular earnings.
- Not based on financial need.
- Claim is eligible for a “benefit year.”
- 52 weeks beginning the week application filed.
- Work 180 hours within a base year to qualify.
- Part-time workers can collect benefits.
- Base year determines employer liability.
- Receive 13 – 26 weeks of benefits.

BASE YEAR (DEFINITION)

An employed base year is the first four of the last five complete calendar quarters prior to the week in which they file the claim.

If an employee applied for unemployment benefits on January 31, 2023, their base year would include wages earned from October 1, 2021, through September 30, 2021.
REIMBURSABLE EMPLOYERS

- Non-profit with 501(c)(3) status, government entities, and school districts are considered reimbursable employers.
- Reimbursable employers pay the full cost of all unemployment benefits drawn by their former employees.
- Reimbursable employers do not qualify for relief of benefit charges. (For example: If an employee receives benefits they are not entitled to, and receives a waiver of repayment, the school district is not reimbursed.)

EDUCATIONAL EMPLOYEES & SCHOOL BREAKS

- Educational employees with a contract of pay for twelve months cannot file for unemployment benefits for weekends, holidays, school breaks, etc.
- Guest educational employees are not eligible for benefits during traditional school breaks in situations where they have "reasonable assurance" that they will continue working after the break.
- This allows districts to hire guest employees to work during the school calendar, but not be financially responsible for twelve months of compensation.
- This applies to your guest employees, or substitutes. Examples are bus drivers, substitute teachers, and any seasonal worker (including education on contract) etc.

REASONABLE ASSURANCE

- 2018-2019 Review: The law changed and Reasonable Assurance now has stricter requirements. - RCW 50.44.003
- The key changes impacting school districts are a three-part test to determine whether school employees are eligible for unemployment compensation during school breaks:
  - 1) Are there prerequisites to employment?
  - 2) Does the employee have a contract?
  - 3) Does the employee have reasonable assurance?
THREE PART ANALYSIS FOR REASONABLE ASSURANCE - #1

1) Offer is made by somebody with actual authority
   * "There is a written, verbal, or implied offer of employment made by an individual with actual authority to offer employment." WAC 392-201-0171(5).

THREE PART ANALYSIS FOR REASONABLE ASSURANCE - #2

2) Both the old (current-term) job and new (next-year-term) job are in the same capacity. In order to be considered in the same capacity, it must be:
   * Professional job to professional job
   * Non-professional job to non-professional job
   * Educational institution to educational institution
   * Educational Service District to Educational Service District

THREE PART ANALYSIS FOR REASONABLE ASSURANCE - #3

3. The employer must pay at least 90% of the wages it paid in the previous academic term. According to WAC 392, the "employer cannot reduce employee's wages by more than 10%."
RA LETTER LANGUAGE UPDATES

This information was sent to our Unemployment Pool districts in April 2019. In order to comply with those requirements, we suggested the following language:

We are pleased to notify you of reasonable assurance of continued employment with ________ for the 2020-2021 school year. It is highly probable that this employment will be in the same capacity as your current employment as a ________, with the same rate of pay and the same pattern of employment, including wages equaling at least 90%.

This was a new law at the time, but we are pleased to report that in all cases where the districts used this language, benefits were properly denied...

RA LETTERS AND APPEALS TO OAH

...there were few limited cases where a district’s RA letter was found to be insufficient.

This happened where the district, which in good faith was unable to state return under those conditions was “highly probable,” did not include that specific language.

Where that has not been at issue, all RA letters have been upheld through present (excluding summer 2020 under emergency COVID rules).

SUMMER 2023 & THE 2023-2024 SCHOOL YEAR

Reasonable Assurance for Summer Break 2023
- Summer Break (June 2023 – early September 2023) is covered by your 2022-2023 RA letter that would have been sent out around May/June 2022.

Work Refusal Due to COVID Fear
- There needs to be an articulable, individualized concern and supporting documentation.
- State emergency order is lifted. Federal emergency order is being lifted in May 2023.
RA AND FORMER STAFF

RA Questionnaires and separated employees
- Why does Employment Security request these?
- How should districts respond?

Hearings with OAH regarding RA for former staff
- Why do these happen?
- How should the district respond?

LOOKING FORWARD

What if you haven’t sent out RA for 2022-2023?
- Send out notification now of continued employment using the statutory RA language, including dates, to cover summer 2022.
- Please also send out RA to cover 2023-2024.
  - Best Practices:
    - Paper trail showing communication to the worker
    - Include dates of customary breaks, or reference district calendar online
    - Worker signature to acknowledge receipt

Help Us Help You
- Reasonable Assistance
- Make sure your 2023-2024 school year letter gets out.
- To the extent possible, please provide RA to any seasonal and guest/substitute employee, including coaches.
- Employee Re-employment/Termination Documentation is extremely important
- Please feel free to reach out to me if you have questions about the process, especially if you are also a WCT member.

QUESTIONS?
Thank You!

We appreciate your time and participation!
We invite you to complete the post-event survey.
Your feedback will inform our efforts to continually enhance the value of these events.

Survey Link: [Insert Link]

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Available Member Services

- Workers' Compensation Trust
  - Employer Services Development
  - Compliance
  - Audits

- Unemployment Pool
  - Claim Management
  - Compliance Management
  - Legislative Updates
  - Management Reporting
  - Reviews, Hearings, Appeals
  - Training & Education

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Connecting With PSESD

[Insert Social Media Icons and Links]

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