

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

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A REFUND IS RECOVERABLE EVEN IF THE CLAIMANT RECEIVES UNENTITLED UI BENEFITS IN GOOD FAITH

Background

An emergency room nursing technician resigned to return to school to finish her nursing degree. She left the hospital on good terms and hoped to return one day as a registered nurse. Although the employee worked during Covid 19, her leaving was not related to the pandemic. During the employee's exit interview, the employer provided her with the required form BC-10, which includes the employer's name, address, and federal identification number. The NJ Division of Unemployment (Division) uses this form to contact the correct employer for separation and wage information. The form is mandated by regulation and is given to all separated employees.

Process

Since the employee (claimant) was given unemployment form BC-10 by her former employer, she assumed she would be eligible for unemployment benefits and filed a claim. The Division paid her for regular and pandemic unemployment assistance in the amount of \$20,384.00, which was exhausted in 2021. According to Division guidelines, UI claims are required to be adjudicated timely when there is a separation issue. In this case, the claimant's issue of voluntary leaving was not adjudicated until nearly a year later—well after she exhausted her full benefit entitlement. The claimant filed her claim during the pandemic – a time when the Division was inundated with claims and could not meet their own guidelines. To ease the pain of delayed unemployment benefits, the Division elected to “pay now and adjudicate later.” Unfortunately, the policy was flawed and resulted in too many claimants receiving unentitled benefits they would later have to repay. In the claimant's case, she received a demand for refund in the amount of \$20,384.00 – money she had already spent to live on and could not pay back. Since it was not her error, she filed an appeal to, in her words, “right a wrong.”

The appellant claimant appeared before the Appeal Tribunal examiner to appeal the voluntary leaving disqualification for regular and pandemic benefits and the demand for refund. The employer's agent appeared with the claimant's resignation letter, which was submitted into evidence in lieu of an employer witness. The claimant acknowledged she resigned to return to school and argued that since the Division of UI held her eligible and paid her full benefits, it was the Division's error, not hers and she should not be liable to repay the money due to the substantial hardship.

Judgment

In the Appeal Tribunal's Decision, the examiner opined that, while the claimant may have had a good reason for leaving work, it was not connected to the job and disqualifying under N.J.S.A. 43:21-5(a). The examiner cited a Board of Review decision which held that a claimant who leaves work to further his/her education, shall not expect the UI Fund to subsidize her education. Furthermore, the examiner held that the claimant did not meet the criteria for pandemic related benefits. Although the claimant should not have been paid in the first place, the UI Law provides for the recovery of unentitled benefits paid to an individual. Hence, a disqualification for benefits was imposed under the regular UI program, as the claimant left her job without good cause attributable to the work and she was ineligible for pandemic unemployment assistance. Since she was not entitled to benefits, she was held liable to refund the overpayment in the amount of \$20,384.00.

This case represents just one claim of many that had not been adjudicated timely and triggered a large refund of UI benefits. Although the Division made the mistake and should be accountable, it is blameless claimants who pay the price by having to refund the money. While the law is clear that a refund is recoverable despite the Division's error, claimants are afforded the opportunity to appeal and request a waiver for CARES Act related overpayments. Unfortunately, regular UI benefit overpayments are not waived, but can be repaid through a payment plan or offset with state and/or federal tax refunds.

For more information about Princeton Claims Management or unemployment insurance eligibility please contact **LuAnne Rooney Frascella** at 609.936.2207 or lfrascella@njha.com.