



How to Prepare for New Obligations Under New Jersey's Unemployment Compensation Law

Insights

7.28.23

New Jersey employers should prepare now for significant new reporting obligations under the state's Unemployment Compensation Law. Recent amendments will require employers to conduct all communications with the New Jersey Department of Labor and Workforce Development (NJDOL) in electronic format and abide by new deadlines. These new obligations will take effect sometime after July 31, when the NJDOL finalizes the infrastructure to enable electronic reporting. Notably, the changes will significantly affect your process for separating and temporarily laying off employees – and failing to comply could expose your business to significant penalties. Thus, it is critical that you immediately review the changes and consider taking these five steps to prepare.

Your 5-Step Action Plan Ahead of New Reporting Duties

- 1. Prepare for electronic reporting.** Currently, employers are required to provide a printed copy of instructions for claiming unemployment benefits to employees at the time they become temporary or permanently unemployed. You can use Form BC-10, which is available on the NJDOL's website. Once the infrastructure is in place, employers will be required to *immediately and simultaneously* provide the completed Form BC-10 to the NJDOL by electronic means.
- 2. Note additional information-sharing obligations.** Employers will also be required to report separation information about the employee to the NJDOL, by electronic means, immediately upon separation or layoff. The NJDOL is still in the process of developing the form, but once the form is available, the information provided will be used by the NJDOL to make benefit determinations and shared with the employee, who will be given the opportunity to respond.
- 3. Review FAQs and watch for additional guidance.** The NJDOL has published FAQs on the changes to the law and intends to issue guidance. In the interim, NJDOL says employers should create an account with Employer Access as soon as possible so you can receive email updates.
- 4. Understand the consequences for failing to comply.** If an employer fails to provide separation information or respond to any NJDOL request for additional information, then the NJDOL will rely on other provided information, including affidavits from employees regarding their wages and time worked. Further, benefits will be paid immediately, and benefits paid prior to the employer's submission of required information will be charged to the employer's account and will be incontestable. The new amendments also increase penalties for failure to comply with reporting obligations. Previously, the penalty for an employer's failure to provide information was

\$25 for every 10 days. Now, an employer that “willfully fails or refuses to furnish any reports or information required . . . including failure to provide the information required . . . immediately upon a separation from employment” will be liable for a fine of \$500 or 25% of any amount of unemployment benefits fraudulently withheld, whichever is greater. Under some circumstances, each day of a failure to disclose a material fact or refusal to provide reports or information can constitute a separate offense.

5. **Be Proactive.** You should take proactive steps to ensure you will be ready for the upcoming implementation, including making sure that you have an account with NJDOL’s Employee Accounts. *(Note: if you operate through a PEO, it is the PEO’s obligation to have an account.)*

Conclusion

We will continue to monitor NJDOL announcements on this development, as well as updates on the status of the electronic infrastructure. If you need any assistance preparing for these new requirements, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [New Jersey Office](#). Make sure you are signed up to [Fisher Phillips’ Insight System](#) to receive the latest information directly to your inbox.

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Rosemary S. Gousman
Partner
908.516.1060
Email

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