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Wisconsin Employers Must Act Now to Obtain Relief of Account Charging for COVID-19 Related Unemployment Benefits

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The Wisconsin Department of Workforce Development (DWD) recently announced that employers must take quick action to ensure that initial COVID-19 related unemployment benefits are not charged to their UI accounts. For any employee who filed their initial COVID-19 related unemployment claims for weeks after May 15, 2020, employers must fill out and submit **Form UCB-18823-E by August 15, 2020** in order to obtain relief from benefit charges to their UI accounts.

In April 2020, the Wisconsin Legislature enacted Act 185. This new legislation directed the DWD to determine whether an initial claim for unemployment benefits is related to the COVID-19 public health emergency Governor Evers declared on March 12, 2020. If the claim for unemployment benefits is related to COVID-19 (*i.e.*, the employee is out of work as a result of COVID-19), then Act 185 mandates the benefits are chargeable to the state UI fund's balancing account and not to the taxable employer's account. In other words, Act 185 relieves contributing employers from liability for initial claims related to COVID-19.

The DWD has recently interpreted Act 185 in a manner that requires employers to affirmatively assert that any initial unemployment claims occurring between **May 16 and June 30, 2020** were related to COVID-19 as a condition of obtaining relief from account charging by completing and filing via encrypted email Form UCB-18823-E. The form is available [here](#).

As a result, employers will only receive benefit charge relief for initial unemployment claims occurring between May 16 and June 30 if they complete and file this form. **Again, the deadline to complete and submit this Form UCB-18823-E is August 15, 2020.** With respect to initial claims filed prior to May 16, 2020, the DWD will automatically consider these

claims to be related to COVID-19. It is not necessary to complete Form UCB-18823-E for pre-May 16, 2020 claims.

Three final notes:

1. Reimbursable employers (generally non-profits who have elected to reimburse the State for unemployment benefits directly rather than incur tax liability) must also complete Form UCB-18823-E the same as taxable employers for initial benefit claims between May 16 and June 30, 2020. The State will cover fifty percent (50%) of total unemployment liability. Under the CARES Act, reimbursable employers will receive federal reimbursement of the remaining 50% after the employers pay those amounts to the DWD.
2. Act 185 does not apply to any benefits paid or reimbursed by the federal government, including benefits paid to workers qualifying for expanded unemployment eligibility and the now-elapsed \$600 federal weekly benefit under the CARES Act. This is because these benefits are 100% federally funded with no employer liability.
3. The DWD anticipates the charging relief will take months to complete for all employers because the DWD has to process the forms manually.

Please contact your Michael Best attorney or one of the authors of this Alert if you need guidance on handling COVID-19 related unemployment claims.

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