
NJ Employers Must Add This Step to Their Separation Protocols

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New Jersey employers have long had a duty to issue Instructions For Claiming Unemployment Benefits, known as Form BC-10 (Source), to separated employees, but with several amendments to the New Jersey Unemployment Compensation Act as of July 31, 2023, the consequences for failing to do so are becoming more serious.

Specifically, employers in New Jersey must “immediately and simultaneously” send a completed BC-10 to employees who are separated, and now, file a copy with the New Jersey Department of Labor & Workforce Development’s Division of Unemployment Insurance (the “NJDOL”). The BC-10 form provides employees with critical information for claiming benefits, including the legal name of the employer, its identification number, the work location, date of separation, and whether the separation is permanent or temporary. The NJDOL has indicated that completion of the BC-10 will provide information to help it more efficiently make a benefit determination, however, as of the date of publication, the NJDOL has not issued an updated BC-10 with information about separation.

With the new amendments, employers now have seven (7) days to respond to notices from the NJDOL requesting missing information. Additionally, the NJDOL will now make an initial benefits determination within three (3) weeks of receiving a claim. Thereafter, claimants will have twenty-one (21) days to appeal an initial determination. Upon receipt of an appeal, employers still will have only seven (7) days from receipt of a determination to appeal. This means that employers will have to be vigilant about contesting determinations in a timely manner. Additionally, the amendments subject employers to increased penalties for failure to issue the BC-10, including a \$500/day fine or 25% of the amount of unemployment benefits withheld, whichever is greater.

While employers await the guidance the State has said will be forthcoming, employers should take immediate action by setting up an Employer Access account on the NJDOL’s website (Source). This account will facilitate communication with the NJDOL and make the process more efficient.

Employers with questions about this process should consult legal counsel. If your business needs assistance navigating these changes and ensuring compliance, consider contacting Adam Gersh at Flaster Greenberg or any member of Flaster Greenberg’s Labor & Employment Department.

ATTORNEYS MENTIONED

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