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New Jersey Employers Face New Reporting Requirements Under Unemployment Insurance Law

Amendments to the New Jersey Unemployment Compensation Law signed into law by Governor Murphy in November 2022 will soon become effective, on July 31, 2023. These amendments contain new reporting obligations for employers, penalties for noncompliance, and timeline changes to the unemployment benefits determination process. While employers still are required to provide employees with a Form BC-10 (Instructions for Claiming Unemployment Benefits), they now must provide additional information to the Department of Labor and Workforce Development (DLWD). Specifically, employers must immediately and simultaneously provide to the DLWD by electronic means the following: (1) information related to the separated employee to assist the DLWD in making a benefit determination and (2) a copy of the Form BC-10 provided to the employee. However, the DLWD has not yet published guidance on what benefit determination information it requires from employers upon an employee's separation. The amendments make clear that an employer's failure to provide the required information to the DLWD subjects the employer to increased fines and penalties under N.J.S.A. 43:21–16(b). N.J.S.A. 43:21–16(b), which also was amended, provides that an employer that "willfully fails or refuses to furnish any reports or information" to the DLWD is liable for either a $500 fine or 25 percent of the "amount fraudulently withheld." Notably, each day that an employer fails or refuses to provide such information may constitute a separate offense. These changes in the fines and penalty provisions under the law are attempting to address the situation in which employers decline to provide information to the DLWD regarding the reason for an individual's separation from employment. This can result in unemployment benefits being provided to individuals who do not qualify under the law. The amendments also modify certain deadlines relating to the unemployment benefits determination process, including the following:

- Within seven days after receiving the initial disclosures of the BC-10 and benefit determination information from the employer, the DLWD will notify the employer of any additional information needed by the DLWD.
- Employers now have seven days, not 10, to respond to the DLWD's request for additional information.
- Claimants will have 21 days after receipt of the determination by mail to appeal an initial benefit determination.
- Employers will have seven days from their confirmed receipt of an initial benefit determination to appeal the initial benefit determination.

What Should Employers Do Now?

The amendments impose new requirements on employers that they have not previously had to consider, and noncompliance may result in significant penalties. Employers should review their current practices regarding addressing claims for unemployment benefits and ensure that their employee separation procedures align with these new requirements by the July 31 effective date.

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