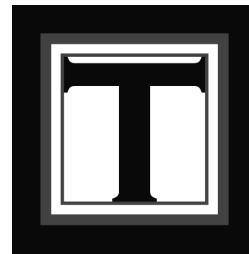


Unemployment Claims 101

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Caution

These slides reflect general legal standards for the related presentation and are not intended as legal advice for specific situations.

Future legal developments may affect these topics.

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Part I: Unemployment 101



What is Unemployment?

Social insurance to replace lost wages

- To help workers who have become unemployed through no fault of their own
- Provides workers time to look for a job
- Provides employers with available workers

The Purpose of Unemployment

The underlying purpose of the MESA is to "lighten the burden of economic insecurity on those who become unemployed through no fault of their own."

Because it is a remedial statute, [MESA] should be liberally construed to achieve its goal.

– This results in empathetic ALJs

Empire Iron Mining P'ship v Orhanen, 455 Mich 410, 417 (1997)

What is Provided?

In Michigan, eligible unemployed workers can receive:

1. Up to 20 weeks of state-funded unemployment benefits, and
2. Up to 34 weeks of federally-funded unemployment benefits

Employers only responsible for funding the initial 20 weeks of state-funded unemployment benefits

How Does the UIA Process a Claim?

When a worker files a new claim for benefits, the UIA must decide two things:

- Did the worker earn enough in wages, ***and***
- What is the reason the worker is eligible and qualified to draw unemployment benefits.

Total Wages and Base Period

UIA considers total wages paid to the claimant during the “base period”

– First 4 of the last 5 complete calendar quarters before the unemployment claim was filed

- (1) January to March;
- (2) April to June;
- (3) July to September; and
- (4) October to December.

School Denial Periods

MESA provides for a denial period when school employees have “reasonable assurance” of returning to work between work years

- Must be given before end of contracted work days

Under MESA, school employees, including teachers, do not have to wait until the start of the next school year to claim unemployment benefits when a school has not given “reasonable assurance” of their return to work

- A teacher’s employment with a school is complete on the last contracted work day for a given school year

MCL 421.27(i)(1)

Practice Pointers: How to Control Unemployment Costs

- Provide accurate information to UIA within proper time limits
- Monitor benefit charges on your accounts
- Notify UIA of protests immediately
- Keep accurate and complete records on employees

Part II: Identifying Whether Claimants are Eligible

Eligibility



How is an Employee Eligible for Unemployment Benefits?

- Worker must be unemployed,
- Must have sufficient qualifying wages, and
- Must be otherwise eligible for benefits.

MCL 421.28

How is an Unemployed Worker Disqualified for Benefits?

An individual shall be disqualified for benefits in cases where individual (most commonly):

- Left work voluntarily
- Was suspended or discharged for misconduct
- Fails to take reasonable action to become re-employed
- Refusal of suitable work

MCL 421.29

“Good Cause” to Leave Work Voluntarily

Good cause exists "where an employer's actions would cause a reasonable, average, and otherwise qualified worker to give up his or her employment."

Warblow v The Kroger Co, 156
Mich App 316, 321 (1986)

What Must an Employer Do When Unemployment Claim Received?

Receives notice from the UIA

10 Calendar Days to Protest

- May provide own information, or
- Fill out “Request for Information Relative to Possible Ineligibility or Disqualification” Form

Admin R 421.205

UIA Decisions on Benefits

Determination

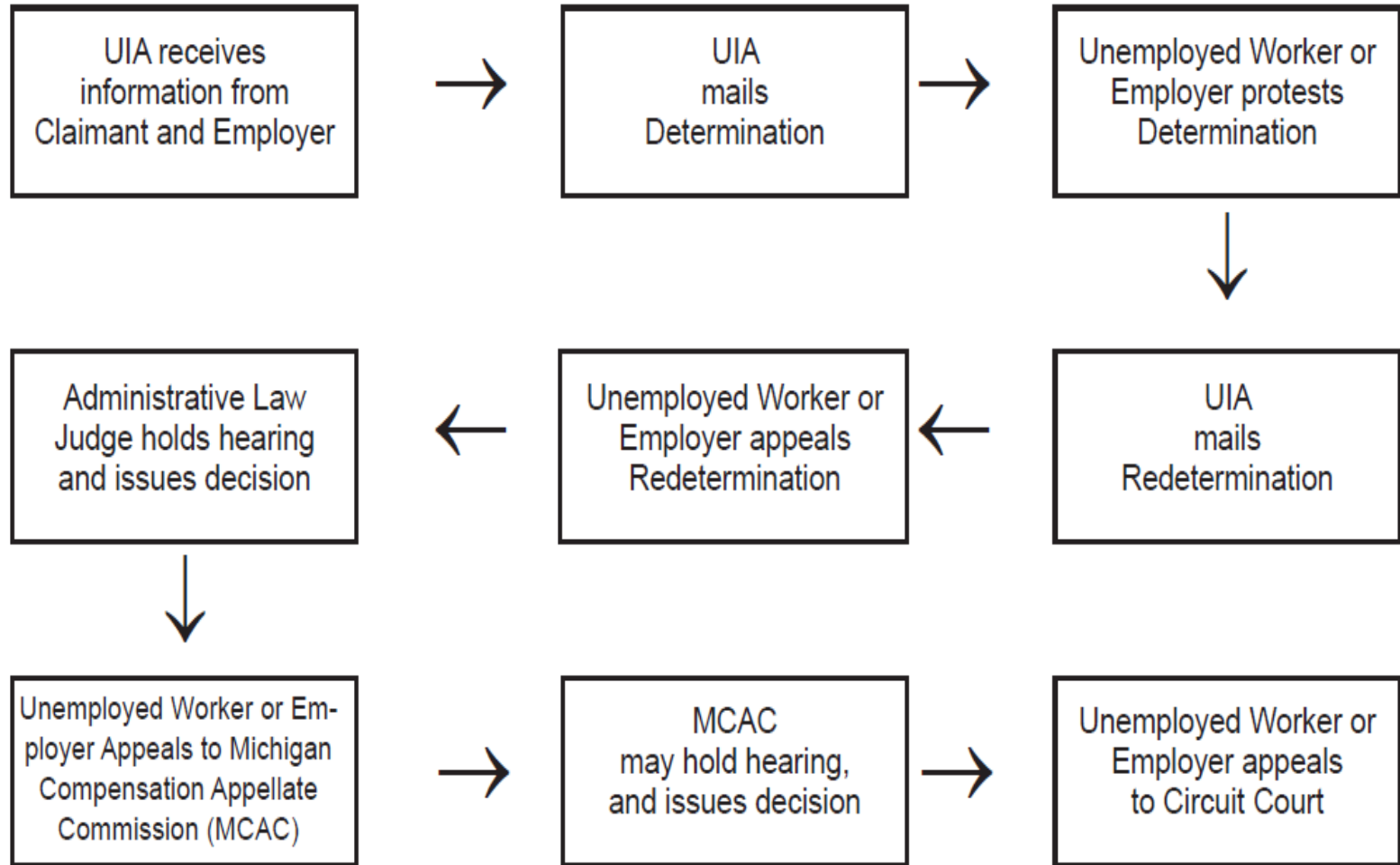
- Decision that a claimant is, or is not, entitled to benefits

Redetermination

- If party disagrees with determination
- 30-day time limit

Appeal Redetermination to an ALJ

The Appeal Process



Part III: What to do When Fraud Suspected



Improperly-Paid Benefits

UIA may recover all improperly obtained benefits from individual if he or she was not entitled

- UIA may also impose penalties if paid benefits were the result of the individual's fraud or false statements

MCL 421.54 and 421.62a

If Employer Suspects Fraud

If you suspect your District is a victim of UI Fraud, there are several ways to report to UIA:

- Online at www.michigan.gov/uia
 - “Report Fraud”
- Complete & Submit “Statement of Identity Theft” form from UIA site
- Call UIA Customer Service Hotline

Contest the Claim with UIA

Appeal Unfavorable Determination, Redetermination, and/or ALJ Ruling

BUREAUS & AGENCIES	BOARDS, COMMISSIONS & COUNCILS	INSIDE LEO	COVID-19 WORKPLACE SAFETY
<ul style="list-style-type: none"> Am I eligible for benefits? What are the steps to apply? How do I certify for benefits? Common Mistakes to Avoid When Filing A Claim I am a Worker Homepage 	<ul style="list-style-type: none"> Tips for reopening your claim What does my status mean? Complete my bi-weekly certification Forms for Workers COVID-19 Employee FAQ 	<ul style="list-style-type: none"> Forms for Employers 	

FINDING EMPLOYMENT

- What does suitable work mean?
- Pure Michigan Talent Connect
- Michigan Works! Agencies


FRAUD AND IDENTITY THEFT

- [Report Fraud or Identity Theft](#)
- What is fraud and how do I prevent it?
- What is identity theft and how to I prevent it?
- Protecting your business from identity theft

I HAVE OTHER QUESTIONS

- Schedule a Phone Appointment
- Instructional Videos
- I need MiLogin assistance
- I need help navigating MIWAM
- Employee Frequently Asked Questions
- Employer Frequently Asked Questions
- Tools and Resources

Ask Ava for help



Statement of Identity Theft

Name: _____ Claim #/Date: _____

SSN: _____

- I did not file or attempt to reopen a claim for unemployment benefits with the information above.
- I did not certify for unemployment benefits on the claim listed above.
- I did not receive any funds from the payment of unemployment benefits on the claim listed above.
- I would like this claim filed in my name to be withdrawn.

Contact Information: Address: _____

Telephone Number: _____

Email Address: _____

Certification: I certify that the information I have reported is true and correct. I understand that if I intentionally make a false statement, misrepresent facts or conceal material information to obtain benefits, I may be required to repay benefits, charged penalties and could be subject to criminal prosecution.

Signature

Date

Telephone Number

Print Name

You can return this form in person at your local Unemployment Insurance Agency (UIA) Office. To find the nearest UIA Local Office, go to www.michigan.gov/uia under *UIA Quick Links*. You can also return this form by mail to the Unemployment Insurance Agency, P.O. Box 169, Grand Rapids, MI 49501-0169 or fax to 1-517-636-0427.

For Internal Use Only:

UIA Personnel Print Name

Signature

Date

Part IV: Unemployment Hearing Basics



Unemployment Insurance Hearings

Conducted by the Michigan Administrative Hearing System in front of an ALJ

- Either in-person or by telephone

Usually occurs when there is a dispute with Redetermination (by either party)

Why it is Important to Attend Hearing Before ALJ

- ALJ may dismiss the case
- The ALJ attaches importance only to sworn testimony
- Hearing is generally last chance to present the facts of the case

Preparing for the Hearing

Consult with an Attorney

Witnesses

- Schedule, prepare questions, advise
- Subpoenas

Documents

- Review case file
- Prepare notes and strategy
- Decide how to get key documents admitted

What to Bring to the Hearing

Witnesses

- First-hand personal knowledge
- Rules of evidence
 - No hearsay testimony

Documents

- Support testimony of witnesses
 - Witnesses verify documents for admission

Burden of Proof at the Hearing

Primary issue ALJ is focused on =

- Has the party with the burden of proof carried that burden by substantial evidence, with first-hand testimony, and other admissible evidence?

Misconduct Cases

In a misconduct case, the burden is always on the **employer** to prove:

1. That the unemployed worker engaged in misconduct, **and**
2. That the misconduct occurred in connection with the work.

“Misconduct” is a willful or wanton disregard of the employer’s interest, or negligence of such seriousness as to imply disregard of the employer’s interest.

Voluntary Leaving Cases

In a voluntary leaving case, the burden is on the ***unemployed worker*** to prove:

1. That the leaving was voluntary but with good cause attributable to the employer, ***or***
2. That the leaving was involuntary (for example, due to personal health reasons).

To show “**good cause attributable to the employer**”:

1. Worker must prove that some condition existed that would have made continued employment unacceptable to a reasonable person.
2. Must have been brought to the employer’s attention and the employer failed to correct it.

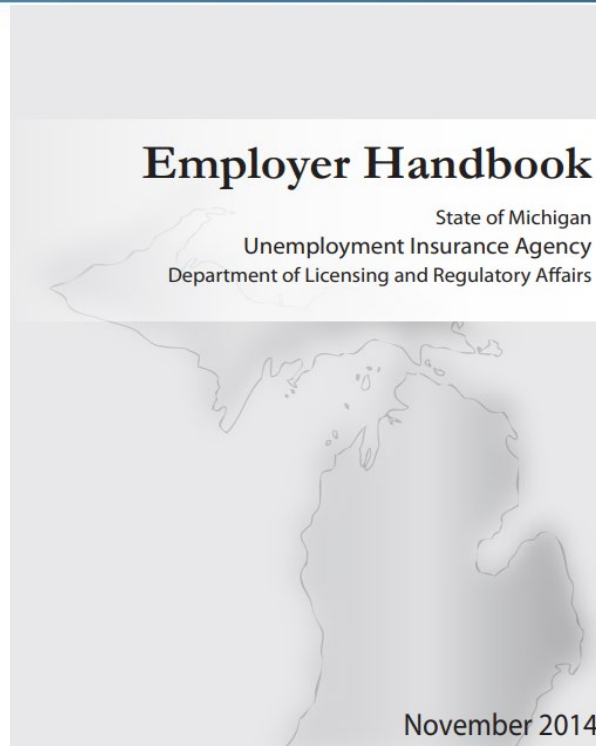
What Happens After the Hearing?

- ALJ considers credibility of witnesses and evidence presented
- ALJ makes “findings of fact” and makes conclusions of law
 - Has party with the burden of proof successfully met that burden?
- ALJ will usually issue a decision within 60 days of the date of the hearing
- Losing party may appeal the decision to the Michigan Compensation Appellate Commission

Practice Pointers: Key Things to Keep in Mind for Hearing

- Know the issue(s) that need to be addressed before the ALJ (check the notice)
- Who has the burden of proof?
 - What has to be proved?
- Prepare witnesses, if necessary
- Understand appeals process & timelines
- When in doubt, contact legal counsel

UIA Employer Handbook



Available at: https://www.michigan.gov/documents/uia/Employer_Handbook1-14_455893_7.pdf

Questions?



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