

Requesting Relief of Benefit Charges

State of Washington - Employment Security Department

If you are a **regular taxpaying employer***, you may be eligible for relief of benefit charges depending on the reason(s) your employee left work. If we grant you relief of benefit charges, your employee's eligibility for benefits, or the amount of benefits they receive, will not be affected. However, your tax rate may improve or may not be impacted by the payment of benefits.

What Are the Reasons I Can Request Relief?

In general, you are not charged for benefits paid to a former employee who no longer works for you because:

1. The employee voluntarily quit – and you did not cause the quit.
2. You discharged the employee for misconduct or gross misconduct connected with the work.
3. You laid the employee off as a direct result of a catastrophe such as fire, flood, or other natural disaster.
4. The employee continues to work for you on a regularly scheduled permanent part-time basis, but is no longer employed by another base year employer they worked for at the same time they worked for you.

How Am I Notified That I May be Charged?

The department uses two forms to notify employers that a claim has been filed:

1. The "Notice to Employer – Claimant's Separation Statement" (EMS 5361) notifies you, if you are the most recent employer, of the reason the individual gave for no longer working for you. If you disagree with the reason given, complete and return the EMS 5361 to the address provided.
2. The "Notice to Base Year Employer" (EMS 166) notifies you that your account may be charged for benefits paid to the listed employee(s).

How Can I Request Relief of Charges?

1. You must request relief of charges in writing.
2. You may use the EMS 5361 by completing and returning the form by mail or fax to the address provided. The form should be returned within 10 days of its mailing date. Please do not mail **and** fax your reply—duplicates could delay your request.
3. You may also use the EMS 166 to request relief. Your request must be postmarked or received within 30 days of the mailing date of the first EMS 166 from the department that states your account could be charged for the individual's unemployment claim.

Please note: If we recalculate the amount of the individual's benefits, you may receive an additional EMS 166 for this claim.

You do not need to request relief of charges a second time if the date in column "2" is the same as the date on any prior EMS 166 you received.

4. Your request for relief must include the dates you employed the individual and detailed information about the reason(s) he or she is no longer working for you.

Are There Other Things I Should Know?

Last Employer: If the individual quit a prior job to work for you and then became unemployed, you could be charged 100% of the benefits paid if you were the individual's last employer. You may appeal these charges if you disagree.

Claimants disqualified for gross misconduct: If you discharged this individual because of gross misconduct connected with their work, you may not be charged for their benefits. "Gross misconduct" means the individual (1) was convicted of a criminal act, or admitted committing a criminal act to a competent authority,** or (2) was discharged for action(s) showing a flagrant and wanton disregard of the rights of their employer or co-workers. If we decide you discharged the individual because of gross misconduct, all of their wage credits based on their employment with you will be canceled and you will not be charged for the benefits.

The department relies on you to provide us with information about an individual's conviction of or admission to a crime. Give complete details about the job separation on the EMS 5361. You must also send proof to the Unemployment Claims TeleCenter within six months of the conviction or admission.

If you first learned that the individual applied for benefits when you received the EMS 166, send proof of the conviction or admission to the Experience Rating/Benefit Charging unit at the address noted on the EMS 166.

The Experience Rating/Benefit Charging unit does not decide whether an individual is eligible for benefits. If you believe any of the individuals listed on the EMS 166 should not be eligible for benefits for any reason besides gross misconduct, please contact the Unemployment Claims TeleCenter.

* Regular Taxpaying Employers does not include: Taxable local governments, taxable political subdivisions, reimbursable employers, and taxable tribal employers.

** Competent Authority includes: Court, prosecuting attorney, law enforcement, administrative law judge, or regulatory agency.

EEOC - The Employment Security Department is an equal opportunity employer and provider of programs and services. Auxiliary aids and services are available upon request to persons with disabilities. Auxiliary aids may include qualified interpreters and telecommunication devices for hearing or speech impaired (TTY) individuals. Individuals with limited English proficiency may request interpretive services free of charge to the customer in order to conduct business with the department.