

Guidance Document

Pursuant to Neb. Rev. Stat. §84-901.03

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ADJUDICATING SEPARATION FROM THE MOST RECENT INSURED EMPLOYER

DISCLAIMER:

This Guidance Document is not intended to take the place of the law. It is intended to provide individuals with a general understanding of how the Department will adjudicate a claimant's separation from the most recent insured employer under *Neb. Rev. Stat.* §§ 48-626, 48-628.10, and 48-628.12. For additional information on Unemployment Insurance Benefits, individuals may consult the Handbook for Unemployed Workers (Handbook), or visit dol.nebraska.gov, where information is provided on the Nebraska Employment Security Law, *Neb. Rev. Stat.* §§ 48-601 through 48-683 (NESL), and portions of the Nebraska Administrative Code related to NESL.

ADJUDICATION OF A CLAIMANT'S SEPARATION FROM THE MOST RECENT INSURED EMPLOYER:

When evaluating a claimant's eligibility for unemployment insurance (UI) benefits, the Nebraska Department of Labor (NDOL) considers only the claimant's separation from the most recent insured employer. See *Neb. Rev. Stat.* §§ 48-626 as amended by Laws 2022, LB 567 §2. Only a claimant's separation from the most recent insured employer may result in a time disqualification under *Neb. Rev. Stat.* §§ 48-628.10 or 48-628.12 and/or a benefit reduction under *Neb. Rev. Stat.* §§ 48-626. Other base-period separations are adjudicated only for the purpose of assessing employer charging and do not affect a claimant's benefit eligibility.

This document provides guidance on how NDOL identifies the most recent insured employer.

Insured Employer

A claimant's separation is from an "insured employer" when the separating employer is required to report the claimant's wages for the purpose of UI tax liability. An insured employer can be an employer required to report the claimant's wages to NDOL or an employer required to report the claimant's wages to the state UI agency in another state or U.S. territory. The federal government is also an insured employer for any claimant who performed "federal civilian service" covered by the UCFE program or "federal military service" covered by the UCX program.

A claimant who stops performing work *other* than services for an insured employer has not separated from employment under the NESL and thus NDOL will not adjudicate the reason the claimant stopped performing this work.

- **Example 1:** Jane worked for ABC Company as an employee for 5 years until she was laid off. She then provided services as an independent contractor to XYZ Inc. until her contract was terminated due to misconduct. After her contract with XYZ Inc. was terminated, Jane filed for UI benefits. XYZ Inc. was not an insured employer for Jane, and thus NDOL will adjudicate only Jane's separation from ABC Company when determining her benefit eligibility.

Most Recent Separation

To determine whether a claimant's separation from an insured employer is the most recent, NDOL

compares: (1) the date the claimant filed the UI claim being adjudicated; and (2) the date of each separation from employment that occurred *before* that claim was filed. NDOL will adjudicate only the separation that occurred closest in time to when the UI claim was filed, the separation that caused the claimant to be unemployed as defined in Neb. Rev. Stat. §48-602. See *Gilbert v. Hanlon*, 214 Neb 676, 335 N.W.2d 548 (1983).

1. *Single insured employer before UI claim filed*

If a claimant worked for only one insured employer and then separated from that employer before filing for UI benefits, that employer is always the most recent insured employer. This is not affected by the length of time the claimant worked for the employer or whether the claimant worked full-time or part-time.

- **Example 2:** Joe worked as an employee for ABC Company for 10 years until he voluntarily quit. Joe then started working as an employee for XYZ Inc. but was laid off after 2 days. After Joe was laid off from XYZ Inc., he filed a claim for UI benefits. NDOL will adjudicate only Joe's separation from XYZ Inc. when determining his benefit eligibility.
- **Example 3:** Jane worked as an employee of ABC Company for 10 years and then voluntarily quit. Jane was offered a job at XYZ Inc., but the job offer was revoked before Jane performed any services. NDOL will adjudicate only Jane's separation from ABC Company when determining her benefit eligibility.

2. *Concurrent insured employment before UI claim filed*

If a claimant worked concurrently for multiple employers in the period before applying for UI benefits, the most recent insured employer is the one from whom the claimant last separated before filing the UI claim being adjudicated.

- **Example 4:** Sam worked as a part-time employee for both ABC Company and XYZ Inc. Sam was laid off by ABC Company on October 1. Sam then quit XYZ Inc. on October 2. He filed a claim for UI benefits on October 3. XYZ Inc. is the most recent insured employer, and NDOL will adjudicate only Sam's separation from XYZ Inc. when determining his benefit eligibility.
- **Example 5:** Susie worked as a part-time employee for both ABC Company and XYZ Inc. Susie was laid off by ABC Company on October 1. Susie continued to work for XYZ Inc. part-time but applied for UI benefits based on her reduction in income. NDOL will adjudicate only Susie's separation from ABC Company when determining her benefit eligibility.

3. *Separation that occurs while claimant is actively claiming benefits*

If a claimant is actively claiming UI benefits while employed part-time and subsequently separates from that employer, this is not a separation from the most recent insured employer and should not be adjudicated *unless* the active UI benefit claim was established based on the claimant's reduction in hours from this same employer.

- **Example 6:** Louis worked as a part-time employee for both ABC Company and XYZ Inc. He was laid off by ABC Company on October 1. He continued to work for XYZ Inc. part-time but applied for UI benefits on October 2 based on his reduction in income. In November, while still actively claiming UI benefits, Louis quit working for XYZ Inc. Because the separation from XYZ Inc. occurred while Louis was already unemployed and actively

claiming benefits, ABC Company remains the most recent insured employer on this claim, and NDOL will not adjudicate Louis's separation from XYZ Inc. when determining his benefit eligibility. However, NDOL may investigate whether there is any issue affecting Louis's availability for work.

- **Example 7:** Elaine worked full-time for ABC Company until she was laid off on October 1. She filed a claim for unemployment benefits on October 2. On October 3, Elaine started a part-time job for XYZ Inc. but still met the definition of unemployed and continued claiming benefits. On November 1, Elaine voluntarily quit her part-time job at XYZ Inc. ABC Company is the most-recent employer, and NDOL will not adjudicate the separation from XYZ Inc.
- **Example 8:** Lucia worked as a full-time employee for ABC Company but in October had her hours reduced due to a slowdown in business. Lucia continued working at ABC Company but filed for UI benefits based on the reduction in her income. In November, while she was still actively claiming UI benefits, Lucia quit her job at ABC Company. Under this circumstance, ABC Company is the most recent insured employer, and NDOL will adjudicate Lucia's separation from ABC Company when determining her ongoing benefit eligibility.

4. *Separation on a reopened claim following additional employment*

If a claimant reopens a UI benefit claim before the expiration of a prior benefit year and after having obtained and separated from new insured employment, the new employer is the most recent insured employer, and NDOL will adjudicate this separation.

- **Example 9:** Marvin worked as an employee of ABC Company until he was laid off. He filed a claim for UI benefits in October and received benefits until he started a new full-time job as an employee of XYZ Inc. in November. A month later, Marvin voluntarily quit his job with XYZ Inc. The most recent insured employer is XYZ Inc., and NDOL will adjudicate Marvin's separation from XYZ Inc. when determining his benefit eligibility on his reopened claim.

5. *Effect of an indefinite disqualification on a previous claim*

Only a disqualifying separation from the most recent insured employer will result in a new time disqualification on a claim for benefits. However, a disqualification pursuant to *Neb. Rev. Stat. §48-628.12* will remain in effect, even if the claimant has a more recent insured employer, until either (1) the claimant has satisfied all requalification requirements; or (2) the claimant establishes a new benefit year.

- **Example 10:** Rosa separated from ABC Company, filed a claim for unemployment benefits, and was determined by NDOL to have quit voluntarily without good cause and to be subject to an indefinite disqualification. Rosa subsequently worked as an employee of XYZ Inc. for one month and was discharged for disqualifying misconduct. Before the benefit year on Rosa's first claim ended, Rosa filed a reopened claim for UI benefits. The indefinite disqualification resulting from Rosa's separation from ABC Company will remain in place because Rosa was not discharged from the most recent subsequent employment under non-disqualifying conditions and thus does not meet all requalification requirements in *Neb. Rev. Stat. §48-628.12*.
- **Example 11:** Julian separated from ABC Company and was determined by NDOL to have quit voluntarily without good cause and to be subject to an indefinite disqualification. Julian subsequently worked as an employee of XYZ Inc. for more than a year and was discharged for disqualifying misconduct. By the time Julian applied for unemployment

insurance benefits, the benefit year on his first claim had expired. Julian filed a new claim for unemployment benefits. The indefinite disqualification resulting from Julian's separation from ABC Company does not remain in place because a new benefit year has started. Julian is disqualified for 14 weeks under *Neb. Rev. Stat. §48-628.10*.