Introduction:

- This presentation is provided to cover the major law changes to Chapter 96, which is also known as the Employment Security Law.
- House Bill 4 made significant changes to Chapter 96.

Questions may be sent to our House Bill 4 Mailbox at:

HB4questions@nccommerce.com
Employers:

- Government and non-profit reimbursable accounts to submit 1% tax for periods 3rd quarter 2013 through 2nd quarter 2014, and maintain an account balance equal to one percent (1%) of their taxable wages. There are about 2,000 employers in NC are in this category.

- No allowance for non-charging on government reimbursable accounts. About 218 of these government and non-profit's currently have non charging allowance. Each will be assigned a new account number.

- Required contributions to the Unemployment Insurance fund.

- Tax rates: under the new law, tax rates will be calculated under a new statutory formula found in N.C.G.S 96-9.2.

- New tax rates go into effect in 2014.
Employers:

- Quarterly filing: Employers with 25 or more employees are required to file their quarterly reports (to include payroll services and accountants) in a format prescribed by the DES. This format doesn’t include paper. Penalties will be accessed for non-compliance.

- Substantial fault: the new law eliminates substantial fault. An individual will either qualify or not for benefits.

- Good Cause: Domestic violence and military spouse relocation are defined as good causes for leaving work. 96-14.8. Other causes for leaving work will still need to be determined on a case by case basis.

- Suitable work: After the 10th week of a benefit period, any employment offering 120% of the individual’s weekly benefit amount will be considered suitable work.
Misconduct Examples:

- Misconduct: 1). Conduct evincing a willful or wanton disregard of the employer’s interest as is found in deliberate violation or disregard of standards of behavior that the employer has the right to expect of an employee or has explained orally or in writing.

- Or 2). Conduct evincing carelessness or negligence of such degree or recurrence as to manifest an intentional and substantial disregard of the employer’s interests or of the employee’s duties and obligations to the employer.

Examples Include:

- Violation of employer’s written alcohol or illegal drug policy.
- Reporting to work significantly impaired by alcohol or illegal drugs.
- Consumption of alcohol or illegal drugs on the employer’s premises.
- Conviction by a competent jurisdiction for manufacturing, selling or distributing a controlled substance if the offense is connected with the work.
- Termination or suspension after arrest or conviction for offenses involving violence, sex crimes, or illegal drugs connected with the work.
- Physical violence of any kind directed at supervisors, subordinates, coworkers, vendors, customers or the general public.
Misconduct Examples:

- Inappropriate comments or behavior towards supervisors, subordinates, coworkers, vendors, customers or the general public related to a federally protected characteristic that creates a hostile work environment.
- Theft in connection with employment.
- Forging or falsifying any document or data related to employment, including a previous application for employment.
- Violation of an employer's written absenteeism policy.
- Refusal to perform reasonably assigned work tasks or failure to adequately perform employment duties as evidenced by no fewer than three written reprimands in the 12 months immediately preceding the employee's termination.
Attached Claims for Benefits:

- Employers required to bring negative account balance to neutral (zero) before filing of attached claims can be initiated. This payment will be treated as a Voluntary Contribution payable either by e-check or credit card.
- Limited to maximum of 6 consecutive weeks per benefit year.
- Limited to one filing per benefit year per employee.
- Total amount of claim will be paid upfront to the DES before claims are processed.
- Funds collected from employer will be posted directly to a special account for prepayment.
- Payments will be processed prior to benefits being disbursed to claimant.
- Employer will be reimbursed for unused estimate of weeks paid vs. weeks actually claimed.
- Employers will have 14 calendar days to prepay estimated benefits after claim request is made.

- 96-15 (a1) Claims for benefits
Notice of Separation (500 AB):

- 96-11.4 No relief for errors resulting from noncompliance (Effective 10/21/2013)

- Erroneous payments made due to the employer or agent of the employer failing to respond adequately or timely to a written request for information relating to a claim for unemployment.

- The employer or agent has a pattern of failing to respond timely or adequately.

- A pattern is established by being late or having inadequate information on [ more than 2 of all the requests made in a year or ] more than two percent of all the total requests made in a year; whichever is greater. (this is in the technical corrections bill waiting for approval.)

- DES must track every request made to an employer to determine noncompliance.

- Tracking mechanisms will be housed in the adjudication department.

- Protests may be made to the division when relief of charges is prohibited.

- Employers will be given 14 days to reply to the request of separation. During that first 14 days of the claim, a claimant won’t be paid until we can verify the separation status the claimant provided matches the employer’s response.

- 80% of no employers have 10 employees or less!
Adequate Information:

- Adequate information pertains to sufficient information upon which to make a correct decision under the law and that information is provided on the initial notice of separation and request for separation information along with supporting documents.

- All appropriate sections of the form completed.

- Copies of warnings, policies, handbooks, documents, and other information that the employee acknowledged by signature are all examples of adequate information.

- If the above documents are available, be sure to include them with your timely return of the Notice of Separation and Request for Separation Information (500 AB) form.

- A detailed handout will accompany all 500AB’s with examples of adequate and complete information. This will be for informational purposes only and will not guarantee the outcome of any decision. (waiting for final approval and will be sent out with all new 500 AB’s sometime in the 3rd or early 4th quarter. Will be mailed or visible in the SIDES response.)
Claims for benefits:

- 96-14.7 Other reasons to be disqualified from receiving benefits.

- Failure to supply necessary license: certificate, permit, bond, or surety necessary to perform employment.

- Labor dispute: total or partial unemployment is caused by an active labor dispute.

- There are no substantial fault provisions under the new law.
Claims for benefits:

- Waiting Week: Claims filed after July 1st, 2013, are required to serve a waiting week for each claim filed in the benefit year. Currently, there is only one waiting week per benefit year.

- Earnings Allowance: claims filed after July 1st, 2013, the calculation for an individual’s earnings allowance has changed to 20% of the weekly benefit amount. If a claimant is receiving $350.00 per week, the allowance would be $70.00.

- Reduced work hours: an individual may qualify for benefits if the individual’s work hours have been reduced more than 50% as part of a unilateral and permanent reduction in work hours. The current reduction is 20%.

- Part time work: Part time work may be suitable work if it meets the requirements for suitable work set out in G.S. 96-14.9. (f).
Claims for benefits:

- The weekly benefit calculation: high quarter wage in the base period will now be the average of the last two (2) completed quarters of the base period.

- The maximum number of weeks will be reduced from 26 to 20.

- A formulation table based on seasonally adjusted unemployment rate will be used to determine the minimum and maximum duration of benefits. The adjustment will be made twice a year; in January and July.

- The maximum Weekly Benefit Amount (WBA) reduced from $535 to $350.

- Earnings Allowance calculation is now 20% of weekly benefit amount. For $350, the earnings allowance would be $70.

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  \text{If unemployment drops to 5.5\% (currently 8.9\%)} \quad \text{the max drops to 12}
  \]
Claims for benefits

- Severance Pay: there is no provision in the new law for school registration to waive severance pay.

- Disability: under the new law, the possibility of receiving retroactive UI benefit payments if the claim is allowed is eliminated.

- Attachment and garnishment of fraudulent overpayment: 96-18.1 – this section of the law provides attachment and garnishment of intangible and tangible property against individuals who make a false statement or misrepresentation and failed to disclose a material fact while trying to obtain or increase a benefit or other payment listed in the chapter.

  Can take state/federal income tax refund
Transition for DES:

- Working with the old law and the new law will require employees to utilize a “two track” system during the transition of claims filed before and after the July 1st law change becomes effective. All claims filed with an effective date of June 30, 2013, will be processed using the new laws set out in House Bill 4.

- The employees at the Division of Employment Security are working diligently to make all the necessary changes needed to be in compliance by the July 1st deadline.

- More information will be available soon on our website.
Questions?

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