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1700 PROCEDURAL INSTRUCTIONS

1710 INTERESTED PARTY EMPLOYERS

Interested party employers are those from whom the claimant became separated during the last *eight* weeks of work.

DUA defines an interested party (IP) employer as any employer for whom a claimant worked during his or her last eight weeks of employment. The eight weeks need not be eight consecutive weeks nor do they need to be eight full weeks of work.

For all new and reopened claims effective on or after February 22, 1998 you must interview the claimant and determine all employers for whom the claimant worked during his or her last eight weeks of employment. All IP employers must be indicated as such on the UI system.

While wage processors must review dates of employment on returned Forms 1062 and 1074 to insure that the correct IP employers have been designated on the claim, claim adjudicator's should verify the designation of IP status.

- If a claimant is on a *leave of absence* from a previous employer when the claim is filed, that employer shall still be considered an interested party employer. There is still a continuing employer-employee relationship even though no work may have been performed during the claimant's last eight weeks of work.
- If the claimant is on strike against a previous employer because of a still active *labor dispute*, that employer shall be considered an interested party employer, even though no work may have been performed during the claimant's last eight weeks of work and the claimant may have had subsequent employment.
- If a claimant *reopens* a claim based on services performed for an educational institution during the period between two academic terms and has since been employed by an entity other than a school system, that educational institution may still be an interested party employer.
- If a claimant is a member and employee of a corporation, that corporation may still be an interested party employer even though no work may have been performed during the claimant's last eight weeks of work and the claimant may have had subsequent employment.

Separation issues from all interested party employers must be adjudicated concurrently. All separation issues in the claimant's last eight weeks of employment must be adjudicated before any benefits can be paid to the claimant.

If more than one disqualification is issued, indicate the employer name and DUA employer identification number in the appeal section on the reverse side of the determination notice. In addition, when conducting factfinding with a claimant who has multiple separation issues, advise the claimant that if more than one disqualification is imposed, it will be necessary to appeal all denials and prevail at the hearings level in each case before becoming eligible to collect benefits.

1715 CIRCUMSTANCES AND POLICIES

(A) Prior Claim Based on Same Separation – Prior Claim Disqualification

If a separation, which is to be considered on a new benefit year claim, is one for which the claimant was disqualified on a reopened old benefit year claim, and the disqualification has not yet been satisfied, the claimant will be informed that the disqualification previously imposed is still in effect. The claimant will then be advised of the conditions that must be met in order to qualify for benefits. If the claimant does not accept this explanation, Form 2090, Notice to Claimant: Prior Claim Disqualification, will be prepared and issued to the claimant indicating the status of the original determination. Instructions on completion of Form 2090 are referenced elsewhere in this section.

If the employer returned Form 1062 on the new benefit year claim late and without good cause, issue Form 0676 to the employer indicating the determination on the timely return of Form 1062.

If the employer returned Form 1062 on the new benefit year claim late but with good cause, issue Form 0676 with the determination on timeliness and Form 2089, Notice to Employer: Prior Claim Determination, indicating the status of the original determination. Refer to Section 1720 (K) for instructions on completion of Form 2089.

If the employer returned Form 1062 on the new benefit year claim in a timely manner, issue Form 2089, Notice to Employer: Prior Claim Determination indicating the status of the original determination. Refer to Section 1720 (K) for instructions on completion of Form 2089.

(B) Prior Claim Based on Same Separation – Prior Claim Approved

If a separation, which is to be considered on a new benefit year claim, is one that was approved on a reopened old benefit year claim, proceed as follows:

If the employer returned Form 1062 on the new benefit year claim late and without good cause, issue Form 0676 to the employer with the determination on the timeliness of the return of Form 1062.

If the employer returned Form 1062 on the new benefit year claim late but with good cause, issue Form 0676 with the determination on timeliness and Form 2089, Notice to Employer: Prior Claim Determination, indicating the status of the original determination. Instructions on completion of Form 2089 are referenced elsewhere in this section.

If the employer returned Form 1062 on the new benefit year claim in a timely manner, issue Form 2089, Notice to Employer: Prior Claim Determination indicating the status of the original determination. Instructions on completion of Form 2089 are referenced elsewhere in this section.

(C) Employer Protest on New Benefit Year Claim – No Protest on Prior Claim

If "lack of work" was given by the claimant as the reason for separation on both the reopened old benefit year claim and the new benefit year claim, and no protest was received on the old benefit year claim as a result of which benefits were paid, but a protest was received on the new benefit year claim, all the facts shall be obtained.

If the claimant is subject to disqualification, a redetermination shall be made on the reopened old benefit year claim. Form 3727-B, Notice of Redetermination and Overpayment, shall be prepared and issued to the claimant. However, no copy of Form 3720 shall be sent to the employer.

When the determination has been made, Form 2089, Notice to Employer: Prior Claim Determination, shall be prepared on the new benefit year claim, provided the employer's return of Form 1062 on the new benefit year claim is timely. Prepare Form 2089, checking box 2 to indicate that no protest was received on the original claim.

(D) New Work While in a Period of Disqualification

If a claimant was disqualified pursuant to §25(e), but found new employment and was subsequently separated from that employment, and is subject to disqualification from the new employment, issue Form 3720 regarding the new separation.

(E) Claimant Disqualified – Does Not Re-Qualify

A claimant previously disqualified pursuant to §25(e) reopens the claim. The claimant does not re-qualify. The reason might be an insufficient number of weeks of new employment or a status determination finding no employer/employee relationship pursuant to §2, therefore, self-employment. A claimant who does not have a sufficient number of weeks of re-qualifying wages will be informed that the disqualification has not been satisfied and remains in effect. The claimant will be advised of the conditions that must be met in order to re-qualify. If the claimant does not accept this explanation, prepare Form 3720 citing no section of the law and referencing no employer. Issue the Form 3720 with the following explanation:

Form 3720 Explanation:

On your claim of (file date of disqualifying initial/reopened claim) a notice of disqualification was issued to you on (date). This previously imposed disqualification has not been satisfied and remains in effect.

If a determination from the Status Department indicates that the work upon which the reopened claim was based does not constitute employment, prepare Form 3720 citing neither a section of the law, nor referencing any employer in the heading. Issue the Form 3720 with the following explanation:

Form 3720 Explanation:

As a result of a status determination issued pursuant to MGL Chapter 151A, §2, it has been found that your work at (name of employer) did not constitute employment. Therefore the disqualification issued to you on (date) has not been satisfied and remains in effect.

Since §2 is not printed on the back of Form 3720, attach a printed copy of the section to Form 3720. If the claimant wishes to appeal the determination that he/she has not re-qualified, send the case material to the Hearings Department with a note attached indicating that the case must be manually registered. Do not data-enter an appeal on the UI automated system.

(F) Appeal of Ineligible Monetary Determination

If a claimant is determined to be monetarily ineligible to receive unemployment benefits for any reason (e.g., exempt employment pursuant to §6 or §6A of the Law, insufficient earnings, no employer/employee relationship, independent contractor, etc.) the following steps are to be taken:

1. Inform the claimant that if an appeal is to be filed on the monetary determination, all outstanding non-monetary issues must be resolved. Any of the following actions, as appropriate, must be completed prior to submission of the appeal:

a. If a claimant disagrees with the wage amounts reported by an employer, a Supplementary Wage Request, Form 579, will be sent to the employer.

b. If a claimant did not identify one or more base period employers when filing the claim, a Request for Separation and/or Wage Information – Initial Claim, Form 1062, will be mailed to the additional employers.

c. If a claimant disagrees with the exempt status of an employer pursuant to §6 or §6A, or status as an independent contractor pursuant to §2 of the Law, a Request for Status Determination, Form 586, will be completed and forwarded to the Status Unit in the Revenue Department for a ruling.

2. If all of the appropriate steps have been taken and the claimant still disputes the monetary determination and wishes to appeal, enter the appeal on the computer.

3. If there are any outstanding non-monetary issues, these must be resolved and determinations issued to interested parties.

4. An appeal may be taken on any adverse non-monetary determination and entered on the computer. If filed by the claimant, forward the non-monetary as well as the monetary appeal material to the Hearings Department. Advise the claimant that separate hearings will be scheduled for each determination appealed. If an appeal of a non-monetary determination is received by mail from an employer, attach a memo to the material advising the Hearings Department that the claimant has a monetary appeal pending.

(G) Request for Hearing

Whenever a hearing is requested in connection with a determination issued on Forms 323, 3720, or 124, etc. (but not Forms 3720A, 3720-C or 124-C), enter the hearing request immediately on the Non-Monetary Appeal Screen (UAPP). The Request for Hearing section on the reverse of the determination notice will serve as the signed record of a hearing request.

1720 FORM NUMBERS AND NAMES**(A) Form 113 – Claimant's Statement of Facts**

Form 113 will be prepared whenever a claimant is referred to a claim adjudicator for a determination on any issue in which only a claimant's statement is necessary. All items in the heading must be completed.

(B) Form 113-B – Employer's Statement of Facts

Form 113-B will be completed whenever information is received from an employer. The employer's statement will be copied or summarized on the face of the form and the claimant's statement and rebuttal entered on the reverse.

(C) Form L-0122 – Notice to Employer Regarding Protest

Form L-0122 will be sent to any interested party employer who has returned Form 1074 or 1062 with a protest, but is not entitled to receive a Form 124, 2089, or a copy of Form 3720.

Form L-0122 with block 1 checked, will be sent to any interested party employer that has returned, in a timely manner, Form 1074 or 1062 with a statement relating to the availability of a claimant.

Form L-0122 with block 2 checked, will be sent to any employer who has returned, in a timely manner, Form 1074, and who is determined not to be an interested party because: (1) it has been found that the claimant had eight weeks of subsequent employment, (2) there was no employer-employee relationship.

Form L-0122 with block 3 checked will be sent to any employer who has returned, in a timely manner, Form 1074, and who is determined not to be an interested party because: (1) the claimant left the employer to accept permanent, full-time work elsewhere, or (2) the claimant has been disqualified because of separation from subsequent employment.

Form L-0122 with block 4 checked will be sent to any interested party employer who has returned a timely protest, and the claimant has been determined to be ineligible because of insufficient base period wages, and has accepted the determination of ineligibility.

(D) Form 124 – Notice to Employer of Approved Claim

Form 124 will be sent to any interested party employer who submits a timely protest on Form 1062 or 1074 which results in a determination to pay benefits.

(E) Form 0251-A – Questionnaire Regarding Education Institution, Employee's Claim for Retroactive Unemployment Benefits

Form 0251-A accompanies Form 1074 whenever a non-professional school employee requests retroactive payment of benefits.

(F) Form 261 – Request for Statement of Employer

Form 261 will be used to obtain necessary information from an employer when it is not possible or practical to obtain the required information by telephone. One or more specific questions relating to the particular issue on which information is required will always be added to the form. The employer will be allowed a reasonable amount of time (7-10 days) in which to return the form. If the form is not returned within a reasonable time period, a determination shall be made from the information available.

(G) Form 268 – Health Care Provider's Statement of Capability

Whenever required to make a determination, Form 268 will be issued to the claimant for completion by a health care provider. The form will be prepared by completing the heading and the dates required in Items 1 and 5. The date to be inserted in Item 1 is the date on which the claimant became ill or was injured, or the date on which he became separated from work, whichever is applicable. The effective date of the claim will be entered in Item 5, unless for some reason a different date is appropriate.

If required, additional questions will be added to the form. Such questions will be worded so as to require the doctor to respond with specific information, not simple "yes" or "no" responses.

When the claimant states that he/she left work because the nature of the work was detrimental to the claimant's health, the following question should be included: "What, in your opinion, caused the condition referred to in question No. 4 above?"

(H) Form 323 – Notice to Claimant of Denial of Predate

When a predate is denied on a claim, issue a Form 323 to the claimant. The section of the Law and any regulations which apply to the particular claim shall be cited in the first paragraph on the front of the form. For new claims, cite Chapter 151A §23(b) and 430 CMR 4.01(3). For additional claims, cite Chapter 151A §24(c) and 430 CMR 4.01(4).

(I) Form 1801 – Appeal to the Board of Review from a Decision of the Commissioner for DUA

When an appeal is filed in connection with a decision of the Hearings Department, Form 1801 will be prepared and sent to the Board of Review. All items will be completed, with particular attention paid to the reason for the claimant's appeal. If the appeal is received by mail the letter of appeal and the envelope in which it was received will be attached to the Form 1801. The original Form 1801 will be forwarded to the Board of Review, and a copy retained in the adjustment file.

(J) Form 1801-A – Claimant Appeal from a Labor Dispute Determination of the Commissioner

Whenever a hearing is requested in connection with a determination issued on a labor dispute, Form 1801-A will be prepared and sent to the Board of Review. All items on the form will be completed. If the appeal is received by mail, the letter of appeal and the envelope in which it was received will be attached to Form 1801-A.

If a group appeal is filed by an employer or union, a Form 1801-A will be prepared for each group involving the same employer and union. A list of the names and Social Security numbers of the claimants involved must be attached. Form 1801-A is used for both claimant and employer appeals.

(K) Form 2089 – Notice to Employer: Prior Claim Determination

Form 2089 is prepared and issued to the employer when a determination issued pursuant to §25(e) on a reopened prior benefit year claim applies to a subsequent new benefit year claim. The form heading is completed with the employer name and address. The body of the text will be completed with the new benefit year claim file date, the claimant name and SSN and lastly, the reopen file date on the prior claim. The appropriate box will be checked indicating the status of the original determination as follows:

Box 1 – When a determination disqualifying the claimant was issued on the reopened old benefit year claim, the appeal period has lapsed and the determination was not appealed by the claimant.

Box 2 – When the employer did not return Form 1074 or returned form 1074 without a protest on the reopened old benefit year claim.

Box 3 – When the employer returned form 1074 on the reopened old benefit year claim with a protest but the form was determined to have been late without good cause.

Box 4 – When a determination to approve the claim was issued on the reopened old benefit year claim, the appeal period has lapsed and the employer did not request a hearing on the original determination.

Box 5 – When the employer/claimant requested a hearing on the original determination but the hearing has not yet been conducted or a subsequent decision has not yet been issued.

Box 6 – When the employer requested a hearing on the original determination but did not attend the hearing (default).

Box 7 - When the original determination was affirmed at a hearing, the appeal period has lapsed and no request for review was submitted to the Board of Review.

Box 8 – When a request for review was submitted to the Board of Review but the Board has not yet acted on the request.

Box 9 - When a request for review was submitted to the Board of Review but the Board declined to conduct a review of the decision, the appeal period has lapsed and no appeal to the courts has been filed.

Box 10 - When the decision was affirmed by the Board of Review, the appeal period has lapsed and no appeal to the courts has been filed.

The form will be dated, signed and mailed to the employer by the claim adjudicator.

(L) Form 2090 – Notice to Claimant: Prior Claim Disqualification

Form 2090 is prepared and issued to the claimant when a disqualification imposed pursuant to §25(e) on a reopened prior benefit year claim has not been satisfied and remains in effect on a subsequent new benefit year claim.

The form heading is completed with information identifying the claimant, former employer and claims office. The benefit year expiration and claim file dates included in the form heading will refer to the new benefit year claim. The body of the text includes an explanation referencing the prior claim file date and date of the original determination. The appropriate box will be checked indicating the status of the original determination as follows:

Box 1 – When the claimant did not request a hearing on the original determination.

Box 2 – When the claimant requested a hearing on the original determination but the hearing has not yet been conducted or a subsequent decision has not yet been issued.

Box 3 – When the claimant requested a hearing on the original determination but did not attend the hearing (default) and the time allowed for a response to a notice of default has lapsed.

Box 4 – When the original determination was affirmed at a hearing, the appeal period has lapsed and no request for review was submitted to the Board of Review.

Box 5 – When a request for review was submitted to the Board of Review but the Board has not yet acted on the request.

Box 6 - When a request for review was submitted to the Board of Review but the Board declined to conduct a review of the decision and no appeal to the courts has been filed.

Box 7 – When the decision was affirmed by the Board of Review, the appeal period has lapsed and no appeal to the courts has been filed.

The form will be dated, signed and mailed to the claimant by the claim adjudicator.

(M) Form 3699 – Dependency Medical Certificate

Form 3699 may be given to claimants who claim dependency allowances for incapacitated dependent children eighteen years of age and over. The claimant will be instructed to have the form completed by a physician and to return it as soon as possible.

(N) Form 3720 – Notice to Claimant of Disqualification

Disqualifying determinations will, in most cases be issued on Form 3720. The applicable section of the Law will be cited in the first paragraph.

In each case the reason for disqualification will be entered in the lines provided at the end of the first paragraph on the form. Three sections are provided for recording the various periods of disqualification on Form 3720.

Block No. 1 is used to indicate the period of disqualification when a determination is issued on a separation issue (§25(e)). Block No. 2 is used to indicate a period of disqualification of definite duration (a specific number of weeks). Block No. 3 is to indicate a disqualification period of indefinite duration.

When a claimant is to be disqualified under more than one section of the Law, a separate Form 3720 will be issued for each disqualification.

Note that Form 3720 contains space for identification of the "Employer". This space will be used only for disqualifying determinations on issues in which the employer is involved (separation, leaves of absence, other pay etc.). The name of the employer who is a party to the issue resulting in the disqualifying determination is entered. This may or may not be the most recent employer.

When an employer files a timely protest and the protest results in a disqualifying determination, a copy of Form 3720 will be sent to the employer. When such a copy is sent, a notation to that effect will be made on the adjustment file copy of Form 3720.

(O) Form 3720-E – Notice to Claimant of Disqualification for Failure to Apply for or to Accept Suitable Work

Form 3720-E will be prepared to record all disqualifying determinations imposed pursuant to §25(c) of the Law. A copy will be prepared and sent to an employer who returns a timely protest relative to the failure to apply for, or to accept suitable work.

(P) Form 3720-J – Notice to Claimant of Disqualification and Constructive Deduction

Form 3720-J will be issued when a claimant is disqualified due to: (1) separation from part-time subsidiary work occurring in the last eight weeks of employment prior to filing of the claim, (2) separation from subsidiary part-time work occurring after the establishment of a claim, and (3) separation from part-time work which is obtained after the establishment of a benefit year claim. A copy will be prepared and sent to an interested party employer who returns Form 1062/1074 with a timely protest.

(Q) Form 3720-P – Notice to Claimant of Disqualification Due to Receipt of Pension

Form 3720-P will be issued to the claimant when the receipt of a retirement benefit reduces the claimant's payment rate. A copy will be prepared and sent to an interested party employer who returns Form 1062/1074 with a timely protest relative to the pension.

(R) Form 3720-R – Notice to Claimant of Disqualification Due to Receipt of Remuneration

Form 3720-R will be issued to the claimant when receipt of termination, severance or dismissal pay results in a disqualification. The form also indicates the resulting extension of the claimant's benefit year. A copy will be prepared and sent to an interested party employer who returns Form 1062/1074 with a timely protest relative to the receipt of remuneration.

(S) Form 3720-T – Determination of Eligibility for Training Opportunity Benefits

Form 3720-T will be issued to the claimant when a request for §30 approved training is denied.

(T) Form 3724 – Notice of Determination of Eligibility Pursuant to §28A

Form 3724 is divided into five sections. The first section is the heading and must always be completed. The second section has three parts and must be completed when a disqualification is to be issued. A disqualification issued pursuant to §28A includes a denial of benefits pursuant to §24(a). You must check the block "To the Claimant" when issuing a disqualification and must also check block No. 1, 2 or 3. If block No. 1 is checked, then one of the related blocks a or b must also be checked. In these instances, Form 3724 will be issued to the claimant with a copy sent to an employer who has submitted a timely protest.

The third section must be completed when the claim is being approved pursuant to §28A and the employer has submitted a timely protest. You must check the block "To the Employer" and check block No. 1, 2, or 3. In these instances Form 3724 will be issued to the employer.

The fourth section must be completed whenever a disqualification is to be issued. Dates indicating the period of disqualification must be inserted next to "During the week(s) ending___" and the appropriate block beneath must be checked.

The fifth section includes the date, signature, appeal rights and delivery information.

(U) Form 3727-B – Notice of Redetermination and Overpayment

With the exception of overpayments established pursuant to §42B of the Law (see Form 3729 below), Form 3727-B will be prepared whenever a redetermination is issued that results in an overpayment. This typically occurs when an issue arises after benefits have been paid for one or more weeks to which the determination applies.

The date to be entered in the first line of the determination section of the form "Your claim filed on __" will indicate the date on which the new claim was filed, even though the overpayment may have occurred on a subsequent reopened claim during the benefit year.

The following sections of the Law will be used on Form 3727-B: §29(a) for erroneous payments (check issued for a waiting period, check issued for a week for which no signature was taken, etc.), §29(b) for misstatement of earnings by the claimant, and §29 for unreported earnings.

In all other cases, the section of the Law under which the disqualification is being imposed will be cited. The original Form 3727-B will be mailed to the claimant. A copy of Form 3727-B must be retained in the adjustment file pending the expiration of the appeal period. After expiration of the appeal period, all materials pertaining to the overpayment will be forwarded to the Overpayment Recovery Unit.

When it is necessary to issue a copy of the determination to an employer who has submitted a timely protest, do not send a copy of Form 3727-B. Form 3720 will be prepared documenting the determination for issuance to the employer. A copy will be retained in the adjustment file.

(V) Form 3729 – Notice of Overpayment (Erroneous Payment)

Form 3729 will be issued when an overpayment results from the reversal, on appeal, of an initial determination to pay benefits. The section of the Law citing the final disqualifying decision is entered in the second paragraph of Form 3729. The original Form 3729 will be mailed to the claimant. A copy of Form 3729 must be retained in the adjustment file.

(W) Form 3733 – Notice of Claim Discrepancy

Form 3733 is issued to the claimant when new information requires a determination that might result in an overpayment of benefits. Form 3733 will be prepared in duplicate. The original will be mailed to the claimant and a copy placed in the adjustment folder.

(X) Form 3743 – Request to Claimant for Information

Form 3743 is used when information must be obtained from the claimant and you are unable to reach the claimant by telephone. Allow a reasonable amount of time (7 – 10 days) for the claimant to return the completed Form 3743.

(Y) Form 3754 – Report of Initial Claims Involving Labor Disputes

Form 3754 does not have to be completed by a claim adjudicator. Form 3754 must be submitted in duplicate with all items completed. Form 1062 or 1074 for each claimant must accompany the form. If a Form 1062 or 1074 is received late, a determination pursuant to §38(b) on the timeliness of the return must be made by a claim adjudicator. Copies of the 113B and 0676 will be submitted with

Form 3754. If Form 1062 or 1074 is not returned within two weeks, submit Form 3754 without such forms and indicate in the "Remarks" column those forms that were not, as yet, received. If a Form 1062 or 1074 is subsequently received, forward it to the Labor Dispute Unit of the Determinations Department with a note explaining that Form 3754 was previously submitted.

The claimant's name and complete address must be included on the Form 3754.

In the column headed "Date Filed & Eff. Wk.", the information applicable to the new or reopened claim filed as a result of the labor dispute is to be recorded. It is incorrect to enter the effective date of the new benefit year when the labor dispute results in the reopening of an existing claim.

In the column headed "Claimant's Union Status Give Local No." the union will be identified as well as the union local number (e.g., "laborers union, #22"). It is important to identify the claimant's work location by street number and city (i.e., 185 Washington Street, Boston, Massachusetts).