Questions and Answers

Q 1. Under State law, when an employer does not return the notice of claim form within the specified time, in this case within 10 days of receipt, the employer has waived its standing as a party to any proceedings arising from the claim and is barred from protesting any decision about the claim. What should States do in situations where the information from the claimant is not sufficient to make a determination and the employer has lost standing?

A 1. The agency still has an affirmative responsibility to make a reasonable attempt(s) to contact the employer in order to obtain the information necessary to make a determination. The fact that an employer has lost standing is not relevant. The agency must take the initiative to discover the information necessary to make the proper determination. The loss of standing applies to the right of the employer to protest a decision. It does not negate the State agency's responsibility to make reasonable efforts to contact any party, including the employer, that may have information that is necessary to determining whether UC is due. If a State's law prohibits the agency from attempting to obtain the necessary information from the employer, the State will need to amend its law to conform to Section 303(a)(1), SSA, as a condition for receiving UC administrative grants.

Q 2. What if State law prohibits the State agency from contacting an employer who does not respond to the initial notice of claim filing?

A 2. As stated above, the State has an affirmative responsibility to obtain the information necessary to make the proper determination of a claimant's eligibility. If State law prohibits the State agency from contacting an employer who has information relevant to, and necessary for, the proper determination of eligibility for benefits, the State law would be in conflict with the requirements of Section 303(a)(1), SSA.

Q 3. Is the State required to attempt to contact the employer every time a notice of claims filing is not returned?

A 3. No. The State is required to attempt to contact the employer only if a potential issue exists and the employer may have information necessary to determine whether the claimant is eligible for UC.

Q 4. If the employer does not provide any information, but the claimant provides sufficient information to determine that the reason for separation was a voluntary quit unconnected with the work (for example, to go to school), must the agency contact the employer?

A 4. No. The employer needs to be contacted only when information is necessary to make a determination. If the claimant provides information that is sufficient to prove that he/she is not eligible based on the separation, the agency does not need to investigate further. It is the agency's responsibility, however, to ensure that the claimant has provided sufficient and accurate information upon which to make a determination before deciding not to contact the employer.

Q 5. What should the State agency do when reasonable attempts to contact the employer are unsuccessful?

A 5. In such situations, ETA Handbook No. 301 (p V-11) advises that the State document the unsuccessful actions taken to contact the employer and make a determination based on the available information.

Q 6. May a State automatically find the claimant eligible for UC when an employer fails to return a notice of claim form?

A 6. No. The agency has an affirmative responsibility to develop the facts in order to determine whether UC is due. An automatic finding of eligibility based on the employer's failure to return the notice of filing form is not a method of administration reasonably calculated to ensure payment when due.