

Current

Program Letter

United States
Railroad Retirement Board



Office of Programs Chicago, IL 60611-2092

Quality Reporting Service Center (312) 751-4992
No. UI-C-229

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TO: Chief Executive Officers
Unemployment and Sickness Insurance Contact Officials

SUBJECT: Circular Letter No. UI-C-229: Employer Appeals of RUIA Benefit Determinations

Introduction

The purpose of this circular letter is to review how railroad employers may exercise their rights to protest the award of unemployment and sickness benefits under the Railroad Unemployment Insurance Act (RUIA). Under Section 5 of the RUIA, the Railroad Retirement Board (RRB) provides base-year employers with notice of each claim for benefits filed by its employees. The employer then has 3 business days to submit information relevant to the claim before the RRB determines whether benefits are payable to the employee. If the RRB pays the claim, Section 5 provides that the RRB notify the base-year employer of the determination. Under the RRB's regulations, the base-year employer has 60 days from the date of the determination to file a written protest of the determination.

Although not required by statute, the RRB also sends notice of unemployment benefit applications and claims to each claimant's most recent employer, if different from the base-year employer. The most recent employer may submit relevant information about claims, but is not advised of payment determinations because only base-year employers have standing to protest such determinations.

Prepayment Claims Notification

The RRB is capable of providing prepayment notice of claims for benefits either through the Internet, electronic data interchange, or printed **Form ID-4K, Prepayment Notice of Employees' Applications and Claims for Benefits under the RUIA**. In the absence of prior arrangements to receive and respond to claim messages electronically, printed notices are mailed to an official designated by the railroad. Railroads interested in initiating electronic data interchange programs should contact Ms. Michelle Andrey at (312) 751-3383.

In accordance with the Government Paperwork Elimination Act, which requires Federal agencies to provide its customers the option to submit or transact business with agencies electronically, when practical as a substitute for paper, the RRB now offers an Internet equivalent version of the Form ID-4K, Prepayment Notice of Employees' Applications and Claims for Benefits Under the Railroad Unemployment Insurance Act.

Before an Internet ID-4K can be completed, a railroad must first complete Form BA-12, System Access Application Form (OMB approved 3220-0008), to obtain access to the RRB's Employer Reporting System (ERS). After receiving a User ID and password from the RRB, a designated railroad employee can establish a personal password on-line. Once the user ID and password have been established, the employee has access to the functions of the RRB's ERS designated for his/her use.

Letter notices are mailed to railroad employers on a daily basis, and include information about applications and claims normally received on the preceding business day. Employer information relative to an unemployment application or claim or to a sickness claim is to be provided to the RRB district office serving the area in which the employee resides. The name and telephone number of the appropriate district office are shown on the notice.

Employer information about an application or claim for benefits should be provided to the RRB within **3 business days** from the date that the RRB sends notice of the application or claim. Responses should be provided for applications and claims for which the employer has information which may be relevant to the proper payment of benefits. If no employer response to notice of a claim is received by the third business day, the claim is accepted as initial proof of the claimant's eligibility for benefits and processed for payment.

Paper Work Reduction Act Notice

Section 5(b) of the RUIA requires the RRB to provide notice of claims for benefits to base-year employers. Employer responses to these notices are voluntary. Failure to provide information about questionable claims for benefits, however, may affect the amount that an employer is charged in benefits and the employer's tax contribution rate under the RUIA.

Under the Paperwork Reduction Act, Federal agencies are required to estimate reporting burdens associated with their programs. The amount of time required for an employer to participate in the prepayment claims verification process varies depending upon the extent to which the employer is able to use automated systems. We estimate the average responding burden for employers to be as follows:

	<u>Unemployment</u>	<u>Sickness</u>
Electronic data interchange (EDI)	25.2 hrs./yr.	16.8 hrs./yr.
Form Letter ID-4K	2 min./ response	2 min./response
ID-4K (Internet)	2 min/response	2 min/response
Form Letter ID-4E	2 min/response	2 min/response
ID-4E (Internet)	2 min/response	2 min/response

These are estimates based on employer experience nationwide. The estimates include time for reviewing instructions, obtaining the needed data, and reviewing the completed responses. Federal agencies may not conduct or sponsor, and respondents are not required to respond to, a collection of information unless it displays a valid OMB number. If you wish, send comments regarding the accuracy of our estimates or any other aspects of this program, including suggestions for reducing reporting time, to the Chief of Information Management, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the Office of Management and Budget, Paperwork Reduction Project (3220-0171), Washington DC 20503.

Notice of Claim Determinations

In addition to requiring the RRB to provide notice of each claim prior to a decision to pay or deny benefits, the RUIA requires that "when the Board initially determines to pay benefits to a claimant..., the Board shall provide notice of such determination to the claimant's base-year employer or employers." Upon receipt of notice that an individual's claim for benefits has been allowed, either in whole or in part, the claimant's base-year employer(s) may request a review of the determination to pay benefits, if the employer believes the determination is incorrect.

In accordance with the Government Paperwork Elimination Act, which requires Federal agencies to provide its customers the option to submit or transact business with agencies electronically, when practical as a substitute for paper, the RRB now offers an Internet equivalent version of the Form ID-4E, Notice of RUIA Claim Determination.

Before an Internet ID-4E can be completed, a railroad must first complete Form BA-12, System Access Application Form (OMB approved 3220-0008), to obtain access to the RRB's Employer Reporting System (ERS). After receiving a User ID and password from the RRB, a designated railroad employee can establish a personal password on-line. Once the User ID and password have been established, the employee has access to the functions of the RRB's ERS designated for his/her use.

Absent arrangements for receipt of Internet or electronic notices of claim determinations, **Form ID-4E, Notice of RUIA Claim Determinations**, is used to provide notice of each determination to allow benefits on a claim. The following information is provided with respect to each determination:

- Employee's **Social Security Number**
- Employee's **Name**
- **Claim Period Beginning Date**
- **Claim Profile** - A series of 14 numeric codes indicating the days claimed and allowed, and the days denied in the claim period. The codes are explained in Attachment A.
- **Gross Payable** - The amount of benefits payable with respect to the claim
- **(Change)** - The amount of benefits previously not reported to the employer. If the notice is the first one with respect to the claim, the amount will be the same as the "Gross Payable." If the determination results in a payment on a claim which was previously denied in whole or in part, or was not paid pending completion of an investigation, the amount of the additional benefits paid as a result of the determination is shown.
- **Type** - Indication as to whether the determination applies to a claim for sickness benefits (**SI**) or a claim for unemployment benefits (**UI**).
- **Benefit year (BY)** - Two-digits indicating the benefit year for which the claim was filed, e.g. "04" indicates the benefit year normally beginning July 1, 2004 and ending June 30, 2005.
- Employee's **Payroll Identification Number**.
- **Board Office** - Indicates the city and state of the RRB district office responsible for adjudication of the employee's claims. You can locate the nearest RRB field office by either visiting our Web site at <http://www.rrb.gov> or by calling our toll-free Help-Line at 1-800-808-0772.

Appeal of RRB Determinations

Upon receipt of notice of the RRB's determination to pay benefits for a claim, the base-year employer of the claimant may request reconsideration of the determination. The request for reconsideration must be in writing and should explain the basis for the request, i.e. why does the employer disagree with the determination. Any documentation supporting the request for reconsideration should also be submitted. The request must be received at an office of the RRB within 60 days of the date of the Form ID-4E notice. A request for reconsideration should be mailed to the RRB office identified under the heading "Board Office" on the Form ID-4E.

Upon receipt of a request for reconsideration, the RRB office responsible for adjudication of the claim will review and issue a decision on the request for

reconsideration. If an RRB district office is the adjudicating office, the decision will be referred to the appropriate RRB regional office for review prior to issuance. The employer will be notified in writing of the decision on reconsideration.

If the decision on reconsideration is to sustain the determination to allow benefits on a claim, the employer may appeal the decision to the RRB's Bureau of Hearings and Appeals. An appeal must be filed on Form HA-1, Appeal Under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, and should fully explain the reason for the appeal. In addition, the appeal should reference the date of the decision that is being appealed and identify the office that issued the decision. The appeal must be filed with the Bureau of Hearings and Appeals within 60 days from the date of the notice of the decision on reconsideration. Form HA-1, which is available from any RRB office upon request, should be mailed to:

Director of Hearings and Appeals
U. S. Railroad Retirement Board
844 North Rush Street
Chicago, Illinois 60611-2092

If a base-year employer is not satisfied with a decision on an appeal to the Bureau of Hearings and Appeals, the employer may appeal to the three-member Board. An appeal to the Board must be filed on Form HA-1, Appeal Under the RRA or the RUIA, within 60 days from the date of the notice of the decision of the hearings office.

In accordance with Section 5(c) of the Railroad Unemployment Insurance Act, benefit payments to a claimant will continue, despite the filing of a request for reconsideration or an appeal. Benefits are subject to recovery from the claimant, however, if the decision on the request for reconsideration or appeal results in a finding that the benefits were erroneously awarded.

What Determinations Can BeAppealed?

Any determination made by the RRB that results in payment of either unemployment or sickness benefits to an employee may be appealed by the claimant's base-year employer.

Common determinations made by the RRB which an employer may appeal based on factual issues include the following:

Unemployment Issues

- Is remuneration attributable to any days claimed as days of unemployment?
- Is the employee **available for work** on days claimed as days of unemployment?
- Was the employee willing, able and ready to accept suitable work on days claimed as days of unemployment? Was the employee unemployed because he or she

- failed to follow prescribed procedures for recall to work? Did the employee refuse to accept suitable work? Did the employee mark back on an extra board? Did the employee fail to exercise seniority rights to suitable work?
- Did the employee **voluntarily leave work** without good cause?
 - Did the employee claim benefits for days that he or she did not work because of **mileage or work restrictions?**

Sickness Issues

- Is **remuneration** attributable to any days claimed as days of sickness?
- Is the employee **able to work**, i.e., not sick or injured, on days claimed as days of sickness?

Remember the following when considering whether to request reconsideration or to appeal a determination of the RRB:

- There is no disqualification in the RUIA for unemployment related to suspension or discharge. An employee who is unemployed because of a suspension or discharge can receive unemployment benefits if he or she is otherwise eligible for benefits.
- An employee who voluntarily leaves work **with good cause** is not disqualified from receiving unemployment benefits if he or she is otherwise available for work.
- The determination as to whether an employee has sufficient service and compensation in the base-year to be qualified for benefits is made based on information provided by employers as part of their annual service and compensation reports. Remember that because of provisions for extended and accelerated benefits, not all benefit years begin July 1 and end the following June 30. Check the benefit year designation on Form ID-4E. The base year for the benefit year is the calendar year preceding the benefit year. For example, the base-year for "BY-98" is calendar year 1997.

Here are examples of how a base-year employer might request reconsideration:

Railroad A receives Form ID-4E stating that its employee has claimed and been paid unemployment benefits for May 1 through 14. Payroll records show that the employee marked off the extra board on May 2, 3, and 4. (The railroad did not inform the RRB of the employee's mark off when the RRB sent the prepayment claims verification notice.) Railroad A sends a letter within 60 days to the RRB district office requesting reconsideration of the determination to pay unemployment benefits for May 2, 3, and 4.

The railroad explains that the employee was not available for work on the days at issue and encloses a copy of the timekeeper's record showing that the employee marked off. After investigation, the RRB determines that the employee was not available for work, recovers the appropriate benefits from the employee, and sends a notice to the railroad of the determination made on its request.

Railroad B receives Form ID-4E showing the payment of unemployment benefits to an employee for days in the employee's paid vacation period. The railroad sends a request for reconsideration to the RRB district office that documents the days to which vacation pay is attributable. Upon review, the RRB determines that the employee received remuneration for days claimed as days of unemployment, bills the employee for the amount recoverable, and notifies the railroad of the determination.

Railroad C receives Form ID-4E indicating continued payment of sickness benefits despite the railroad having recently concluded a personal-injury settlement with the employee for the same infirmity. If the railroad did not prevent the sickness benefit payment by responding to the prepayment notice, it can file a request for reconsideration to prevent further payments for the same infirmity and to cause recovery of any benefits not already recovered from the settlement under Section 12(o) of the Railroad Unemployment Insurance Act.

Railroad D receives Form ID-4E notice indicating that an employee who was discharged for failure to pay union dues was paid unemployment benefits. The railroad files a request for reconsideration on the grounds that the employee, in effect, voluntarily quit work by failing to pay union dues. The RRB's regional office issues a decision to the railroad upholding the payment of benefits.

The railroad then files Form HA-1, Appeal Under the Railroad Retirement Act or Railroad Unemployment Insurance Act, with the Bureau of Hearings and Appeals, within 60 days. The hearings officer contacts both the railroad and the claimant and holds a hearing because there are issues of fact. The hearings officer's decision is favorable to the railroad, and the employee is denied further benefits and billed for the overpayment. The employee appeals the decision to the three-member Board which notifies the railroad of the appeal. After evaluating the record, the Board sustains the hearings officer's decision.

We welcome information from employers to help ensure that benefit payments are accurate and are paid only to those who are entitled to them. Erroneous benefit payments that cannot be recovered remain charged to the base-year employer under the experience rating system. Therefore, we emphasize the importance of employers providing information in response to the RRB's prepayment claims verification notices in order to prevent erroneous payments and to avoid collection action. And, where employers disagree with an RRB determination, they should exercise their rights to request reconsideration.

If you have any questions or need additional information about your appeals of RUIA benefit determinations, please contact the manager of your local RRB district office.

This letter is also available on our Web site at <http://www.rrb.gov>.

Attachment

Attachment A

Claim Profile - Day Codes

Unemployment

- 0 Day not claimed
- 1 Claimed day of unemployment/available for work
- 2 Employed, day not claimed
- 3 Claimed day of unemployment, denied for miscellaneous reasons
- 4 Claimed day of unemployment, denied because of work restrictions and/or earnings test
- 5 Claimed day of unemployment, denied due to late registration
- 6 Claimed day of unemployment, denied for miscellaneous reasons
- 7 Claimed day of unemployment, benefits reduced because of receipt of social insurance
- 8 Claimed day of unemployment, denied because of unavailability for work
- 9 Claimed day of unemployment, denied because of receipt of remuneration

Sickness

- 0 Day not claimed
- 1 Claimed day of sickness
- 2 Employed, day not claimed
- 3 Claimed day of sickness, denied for miscellaneous reasons
- 4 Claimed day of sickness, denied due to improper advanced registration
- 5 Claimed day of sickness, denied due to improper delayed registration
- 6 Claimed day of sickness, denied for miscellaneous reasons
- 7 Claimed day of sickness, benefits reduced because of receipt of social insurance
- 8 Claimed day of sickness, denied due to ability to work
- 9 Claimed day of sickness, denied because of the receipt of remuneration