

How Does My Offer of Work Affect My Employees' Unemployment Claims?

BY CESIRA NEWCOMB • MAY 19, 2020

One of the most obvious effects of the COVID-19 pandemic is the record-high number of individuals in Massachusetts who have filed for unemployment. Roughly 75% of those job losses are considered temporary, with employers expected to recall laid-off workers once businesses begin to reopen. Yet with no clear end in sight to the COVID-19 pandemic and many employees wary of returning to the workplace, employers are likely to face questions, or perhaps even pushback, from employees regarding a return to work.

An employer may reopen their business and bring back employees as soon as industry-specific guidelines allow. An employer who is prepared to recall employees should communicate the following information to any employees:

- The start date;
- Whether the position is full-time or part-time;
- The wage;
- The hours;
- The general location; and
- The conditions of the job.

Employees who have a reasonable justification not to return to work may still be entitled to collect unemployment benefits. These justifications include the employee's own health, the work conditions, and the job the employer offers, and the Massachusetts Department of Unemployment Assistance (DUA) will evaluate these reasons on a case-by-case basis. Employees may also continue to collect partial unemployment payments while working part-time.

An employee who would be unable to perform the essential functions of a job without substantial risk to his or her

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health and safety will not lose eligibility for unemployment benefits for declining offered work. However, wanting to remain out of work merely because the weekly unemployment benefits are greater than the employee's regular weekly earnings is not an acceptable reason, and is considered fraud according to the DUA. The DUA has a dedicated email address (UIFraud@detma.org) for employers to report on individuals who decline an offer of work. Further, in light of the federal funding for enhanced unemployment benefits during the COVID-19 pandemic, the Department of Labor's Office of the Inspector General has a mandate to seriously investigate any improper payments and has advised states to ensure compliance.

Accordingly, as businesses reopen, employers should be prepared to report on any suitable work offers and any job refusals.

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