

D12-03

Date: October 23, 2012
Proposed by: Bureau of Benefits
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1. Description of Proposed Change

Explanation of Issue:

The Handbook for Claimants (UCB-10) is very clear that claimants should not give their Personal Identification Number (PIN) to anyone and should change their PIN if they believe someone else knows it. It is the department's policy that a claimant who provides someone else his PIN to file claims or change information on his claim, is responsible for those actions, even if he didn't authorize the particular action that was taken. One exception would be a claimant who needs assistance to file claims due to a physical or mental disability. The investigator always considers mitigating circumstances and the claimant's efforts to resecure the claim by changing the PIN.

In some cases where the claimant provided their PIN to others for purposes of accessing or calling in claims, Administrative Law Judges (ALJ) have remanded back to the Department to investigate a potential known imposter issue.

With the creation of the claimant portal, which will allow claimants to file on line with a username and password, we believe it is important to codify the responsibility to not divulge their PIN, username and password (security credentials) or to not secure their security credentials on the claimant. It should not be the department's responsibility to try to determine who received unemployment when the claimant gives out or fails to secure their security credentials.

2. Proposed Statutory Language

Create 108.04 (2)(g):

1. Each applicant must create security credentials in order to engage in transactions with the department including but not limited to filing an initial or continued claim for unemployment insurance benefits. The security credentials may consist of a personal identification number (PIN), username and password or any other means prescribed by the department.
2. If an applicant's security credentials are used in the filing of an initial or continued request for unemployment benefits or any other type of transaction, the applicant is presumed to have been the individual using the security credentials. This presumption may be rebutted by a preponderance of the evidence showing that the applicant assigned the security credentials is not the individual who used the credentials in the transaction. If, however, the

owner of the security credentials divulges the security credentials to another person, or fails to take adequate measures to protect them from being divulged to another person, the owner shall be strictly liable for any benefits erroneously paid as a result of such actions.

3. Proposer's Reason for the Change

This will eliminate the ability of a claimant who is accused of fraud from being able to claim that the individual who filed the claim on his or her behalf did it without the claimant's knowledge. It is the responsibility of the claimant to keep his or her PIN confidential.

4. Brief History and Background of Current Provision

Some recent decisions by Administrative Law Judges make this proposal necessary to eliminate any confusion with respect to whose responsibility it is to maintain the confidentiality of a claimant's PIN.

5. Effects of Proposed Change

- a. Policy. Simply enables the Department to have the ability to enforce an already existing policy that prevents fraud.
- b. Administrative Impact. The number of claimants impacted by this will be relatively small and it is already administratively being done. This proposal simply allows for an enforcement mechanism if a claimant fails to keep his or her PIN confidential.
- c. Equitable. There are no equity issues.
- d. Fiscal. This proposal will have a small positive but ultimately negligible effect on the Trust Fund. It has been determined that the proposed change concerns less than 50 claimant cases in a given year. Therefore the reduction in benefits paid will occur but given the small number of claimants involved there would be no measurable impact to the Trust Fund.

6. State and Federal Issues

- a. Chapter 108. Besides the addition of 108.04 (2) (g), there is no need for additional amendments to Chapter 108.
- b. Rules. Is consistent with already existing rules.
- c. Conformity. There should be no conformity issues with this proposal.

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7. Proposed Effective/Applicability Date

As soon as the Legislation becomes effective.