



Clearing up the confusion about unemployment

Today's job market may be tough, with some of the highest unemployment rates we've seen in decades, but the Great Depression of the 1930s was still much, much worse. It was during the Great Depression of that the idea of unemployment insurance originated in the United States and was enacted into law as the Social Security Act of 1935. At that time, the federal government was also encouraging individual states to adopt unemployment insurance plans, and Michigan followed suit and enacted the Michigan Employment Security Act of 1936.

The Michigan Employment Security Act (MESA) was established to protect the welfare of the people of this state by establishing an unemployment compensation fund to disburse those funds to individuals who, through no fault of their own, find themselves unemployed and unable to secure another job. The fund is only intended to provide a temporary benefit sufficient to satisfy the basic needs of an unemployed worker. Unemployment insurance is not intended to guarantee an unemployed worker's standard of living during periods of unemployment.

Prior to 1972, governmental entities and many non-profit organizations were not covered under the federal or state employment security systems. Effective Jan. 1, 1972, employees of these organizations—including township employees—became eligible for unemployment benefits on the same basis as other employees. Townships, as employers, then became liable for payment of unemployment benefits.

REIMBURSING VS. CONTRIBUTING EMPLOYERS

Governmental entities, including townships, are employers under the MESA. As employers, townships must participate in the unemployment insurance system as either a “reimbursing” or a “contributing” employer. In Michigan, a township is automatically classified as a reimbursing employer, unless it requests, in writing, to be a contributing employer.

As a **reimbursing** employer, a township agrees to reimburse the unemployment trust fund dollar-for-dollar for benefits paid to former workers, rather than pay the unemployment insurance payroll tax.

Unlike reimbursing employers that only pay when a claim is made, **contributing** employers pay a quarterly tax. The payroll tax rate is based on a formula that uses the employer’s past unemployment experience and the size of its payroll as a measure of its potential risk of unemployment. Generally, employers that have many former workers drawing unemployment benefits have higher tax rates, while employers with few former workers drawing benefits have lower tax rates.

Typically, a township will remain a reimbursing employer until the point that it becomes more cost-effective to pay a quarterly tax versus reimbursing dollar-for-dollar. For example, if in the past five years, the township has had no claims or only one unemployment claim, then it would be more cost-effective to remain a reimbursing employer. However, if a township hires summer help who are regularly laid off each season, or if there has been high employee turnover that results in many unemployment claims, it may be more cost-effective to move to a contributing employer. It is important to note that townships are not eligible for the seasonal employee exemption under the UIA.

A township wishing to switch from the reimbursing to the contributing method must notify the Unemployment Insurance Agency (UIA) within 30 days of being found to be a liable employer, or not less than 30 days before the beginning of the calendar year in which the change will be effective.

Governmental entities are exempt from the Federal Unemployment Tax Act (FUTA) and do not contribute or pay tax toward that program. Therefore, in times where the federal government extends benefits beyond the state’s allowable benefit periods, townships bear the *full* burden of reimbursement for those extended periods—regardless whether they are a reimbursing or contributing employer.

HOW FORMER EMPLOYEES QUALIFY FOR UIA BENEFITS

Some township employees occupy positions that are “excluded” from unemployment benefits (*see sidebar at right*). All other township employees may qualify for unemployment benefits when they become separated from the township through no fault of their own. Employees who quit a job or are discharged for work-connected misconduct are disqualified from receiving

What positions are “excluded”?

The following list identifies the employment positions for a governmental entity that are excluded under MCL 421.43(o) and are not eligible to receive unemployment compensation:

- Officials serving in an elected position. In a township, this includes the township board members (*elected or appointed*), the library board or park commission board members, and constables.
- Members of legislative bodies or the judiciary. (*Members of the state Supreme Court and Court of Appeals, as well as circuit and district court judges and magistrates. Also excluded are members of the state legislature and local city councils.*)
- Those serving with local units of government on a temporary basis in case of fire, storms, snow, earthquakes, floods or similar emergencies. *Note: As of June 2001, the State of Michigan clarified that volunteer fire fighters, including paid, on-call, firefighters are considered “temporary” employees and are not subject to unemployment benefits or reporting requirement. Do not report township employees who serve only in the capacity of paid, on-call fire fighters as employees for unemployment insurance purposes.*
- Those who serve in posts that, under Michigan law, are designated as major nontenured policymaking or advisory positions or in policymaking or advisory posts whose duties do not ordinarily require more than eight hours per week to perform. In townships, this includes the board of review, planning commission, or zoning board of appeals. It also includes a deputy supervisor, clerk or treasurer, to the extent that they do not perform non-deputy job-functions (*UIA Letter, Nov. 21, 2007*).
- Independent contractors and their employees are not employees of the township and are not eligible for unemployment compensation from the township.
- Inmates of a custodial or penal institution.
- Youth who work through a summer employment program administered by the state Departments of Natural Resources or Transportation.



All employees who are not on the list of excluded positions should be considered employees for unemployment compensation purposes.

benefits. However, disqualified workers may re-qualify for benefits by obtaining new employment. Other workers who may not qualify for unemployment benefits include part-time, independent contractors and volunteers.

To qualify for benefits, the unemployed must meet state requirements for wages earned during an established period of time referred to as a “base period.” In Michigan, the base period is usually the first four out of the last five completed calendar quarters prior to the time that the claim is filed. If the worker does qualify, the wages determine the weekly amount and duration of benefits.

Let’s do some math. To be eligible, the highest quarter wages earned in the base period must be at least 388.06 times the state minimum hourly wage (currently \$2,871), and total wages in the base period must be at least 1.5 times the highest quarter wages. If the UIA is unable to qualify someone for benefits using this method, the agency will try to qualify them

based on an alternative base period or alternative earnings qualifier method. The alternative based period method uses the “lag quarter” and the previous three quarters to try to qualify the employees. The alternative earnings qualifier method uses at least two quarters. If the total wages in the base period total at least 20 times the state average weekly wage (for 2010, it was \$828.74) for a total of \$16,574.60. (See the table below for an example of standard base period method.)

HOW UNEMPLOYMENT BENEFITS ARE CALCULATED

Unemployed workers receive 4.1 percent of highest quarter earnings plus \$6 per dependent—limited to five—up to a maximum of \$362 weekly. Workers can collect up to 26 weeks of benefits during a 52-week benefit year. During periods of high unemployment, unemployed workers may become eligible for an additional 13 weeks of extended benefits. Using the figures from the chart below, let’s crunch some numbers:

$$\begin{aligned} & \$3,835 \times .041 = \$157.235 \text{ (or } \$158 \text{ weekly)} \\ & \text{plus } \$6 \times 3 \text{ dependents } (\$18) = \$176 \text{ weekly} \end{aligned}$$

HOW BENEFIT WEEKS ARE CALCULATED

To calculate the number of weeks that the benefits will be paid, UIA takes 43 percent of the total base period wages divided by the worker’s calculated weekly benefit amount. The minimum number of weeks that will be paid are 14, and the maximum will not exceed 26 weeks, unless an extension is granted. Here’s an example:

$$\begin{aligned} & .43 \times \$9,624 = \$4,138.32 \\ & 4,138.32 / 176 = 23.5 \text{ weeks} \end{aligned}$$

HOW UIA BENEFITS ARE CHARGED

Calculating an employer’s proportionate share of the benefit charges begins by determining the wages each base period employer paid the worker. Then the wages paid by each employer are compared to the total wages paid by all employers

1 st Quarter of 2010	2 nd Quarter of 2010	3 rd Quarter of 2010	4 th Quarter of 2010	1 st Quarter of 2011	2 nd Quarter of 2011
Emp. A = \$1,523 Emp. B = \$1,479	Emp. B = \$2,983 Emp. C = \$852	Emp. C = \$1,458	Emp. D = 1,329	LAG QUARTER	CLAIM FILED
Total Wages = \$3,002	Quarter with Highest Wages = \$3,835 <i>(Higher than \$2,871)</i>	Total Wages = \$1,458	Total Wages = \$1,329		
Total Wages: \$9,624 is greater than (1.5 x \$3,835=) \$5752.50					
QUALIFIED					

during the base period and a percentage is calculated for each employer. The percentage is the employer's share of each week's benefit. The separating employer pays 100 percent of the first two weeks. After the first two weeks, each base period employer is charged its pro rata percentage benefit of each of the remaining weeks of benefit.

Take a look at the chart below for an example.

Employer A	15.8% (1329/9624)	27.81 (176 x 15.8)
Employer B	24% (2310/9624)	81.66 (176 x 46.4)
Employer C	46.4% (4462/9624)	42.24 (176 x 24)
Employer D	13.8% (1523/0624)	24.29 (176 x 15.8)

UNDEREMPLOYED WORKERS

An "unemployed" worker is someone who has no earnings in a week; an "underemployed" worker is one who has some earnings in a week, but is still entitled to some unemployment benefits for that week. A person who is working full time in a week is not unemployed or underemployed, and cannot receive unemployment benefits for that week.

When part-time township employees also hold other positions outside of the township and are laid off from their non-township position, they may be eligible for UIA benefits as an underemployed worker. For example, say your township has a cemetery sexton who works less than full time (as defined by the township) and earns \$150 per week from the township. The sexton is laid off from his other employer and receives \$176 weekly in UIA benefit. The \$150 earned from the township is less than 1.5 times what the sexton would earn from unemployment, so he would be considered underemployed.

For every \$1 the sexton earns from the township, his weekly unemployment benefit is reduced by 50 cents. For example:

$$\text{\$264 (1.5 times weekly benefit of \$176) - \$150 = } \\ \text{\$114 in new benefit}$$

If the reason a person is unemployed or underemployed in a week is that he or she turned down work an employer offered, the amount the person would have received is counted as if it were actually received in order to determine whether the person was unemployed or underemployed.

Who's covered?

All employees who are not on the list of excluded positions (*see page 17*) should be considered employees for unemployment compensation purposes and reported. Note that employees who work in more than one capacity may be excluded for one position (board member; on-call firefighter, etc.) and included for another position (i.e., office manager; cemetery sexton). Report only the included wages.

The following positions are considered covered employees (including, but not limited to):

- Officials' deputies—BUT ONLY for any non-deputy job functions, NOT the deputy position (*UIA Letter, Nov. 21, 2007*)
- Fire chief and full-time firefighters (*Volunteer or paid, on-call firefighters are not included.*)
- Police chief, police officers, and other police department personnel
- Full-time emergency medical services or ambulance personnel (*Volunteer or paid, on-call emergency employees are not included.*)
- Election workers are considered part-time, temporary employees whose wages must be reported for unemployment tax purposes (*UIA Letter, Dec. 2, 1998*)
- All other eligible full- or part-time township employees, including, but not limited to:
 - Assessor (*if not the township supervisor or an independent contractor*)
 - Cemetery sextons and workers
 - Clerical employees, all levels
 - Code inspection employees (*building, plumbing, mechanical, and electrical inspectors and building officials—if not independent contractors*)
 - Department of public works employees (*water and sewer, roads, etc.*)
 - Engineer (*if not an independent contractor*)
 - Facility staff: Township hall, campground, community center, golf course, library, parks, pool, senior center, transfer station, etc.
 - Maintenance/grounds/janitorial workers (*if not an independent contractor*)
 - Office manager
 - Township manager or superintendent
 - Zoning department employees (*planner, zoning enforcement officer, zoning administrator—if not independent contractors*)

REQUIRED REPORTING FORMS

All townships are required by law to provide wage detail information using either a Form 1017R (for reimbursing employers) or Form 1017 (for contributing employers) on a quarterly basis to the UIA for each covered employee paid wages during the calendar quarter. Excluded workers should not be included on the 1017 or when calculating a 1020 Employer's Quarterly Tax Report.

Contributing employers use the 1020 Employer's Quarterly Tax Report to compute and pay their unemployment insurance tax. All forms must be received by the 25th day of the month following the end of the calendar quarter. The calendar quarters are March 31, June 30, Sept. 30 and Dec. 31.

APPEALING

The UIA makes the determination about how much money an unemployed worker will receive in unemployment benefits, whether a worker is eligible or qualified for benefits, and if an employer is liable for the payment of unemployment taxes and the amount of the tax. When a decision is made, the UIA issues a "determination" to both the worker and the township employer.

In general, the determination will be "in favor" of one party or the other. The party the determination does not favor may "protest" the determination and request a "redetermination." The request must be made in writing, signed by the protesting party (worker or employer, or their agent or attorney), and filed within 30 days of the date when the determination was issued.

The UIA will issue a "redetermination" either affirming (agreeing with), modifying (changing slightly but giving the same result to), or reversing (giving the opposite result to) the determination. A party that disagrees with a redetermination may "appeal" in writing and ultimately to a hearing officer called an "administrative law judge."

The UIA booklet, *A Guide to UIA Administrative Law Hearings* (Form UC 1800), explains in detail how to prepare for an administrative law hearing. It is extremely important that

townships do not disregard any determination received from the UIA, as deadlines for responding to a notice or appeal are time-sensitive and the UIA considers *no* exceptions to those deadlines.

AWARENESS FOR ALL TOWNSHIPS

While the Michigan economy may be looking up, unemployment issues will surely continue to be an area about which all township officials must be knowledgeable. Unemployment matters can impact your township and it is critical to ensure your township properly follows the rules and procedures about this important employer issue. ■

Cindy Davis,
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Learn more from Davis on further employment matters! Check out the MTA webcast, Who Gets Paid What ... and How? To view an on-demand version of the webcast, visit www.michigantownships.org and click on "MTA Online Learning Portal" to get started!



For more information

Townships can perform a variety of UIA functions and access UIA account information online including filing required forms online and referencing the status of a township account or appeal. UIA offers an array of other services to employers, such as the *Michigan Employer Advisor* newsletter, free seminars and Q & A fact sheets. Visit the State of Michigan's UIA website at www.michigan.gov/UIA.

MTA-member townships can also access a variety of employment-related resources on the MTA website, at www.michigantownships.org/employ.asp.