



Connecting Payroll Professionals
Midwest Regional Payroll Conference

BEST PRACTICES: UNEMPLOYMENT CLAIMS AND HEARINGS

September 26, 2018



TODAY'S AGENDA

September 26, 2018

- **Unemployment Basics**
- **Unemployment Claims**
- **Voluntary Quit & Misconduct Defined**
- **Unemployment Appeals & Hearings**
- **Benefit Charge Audits**
- **Best Practices**
- **Q&A**



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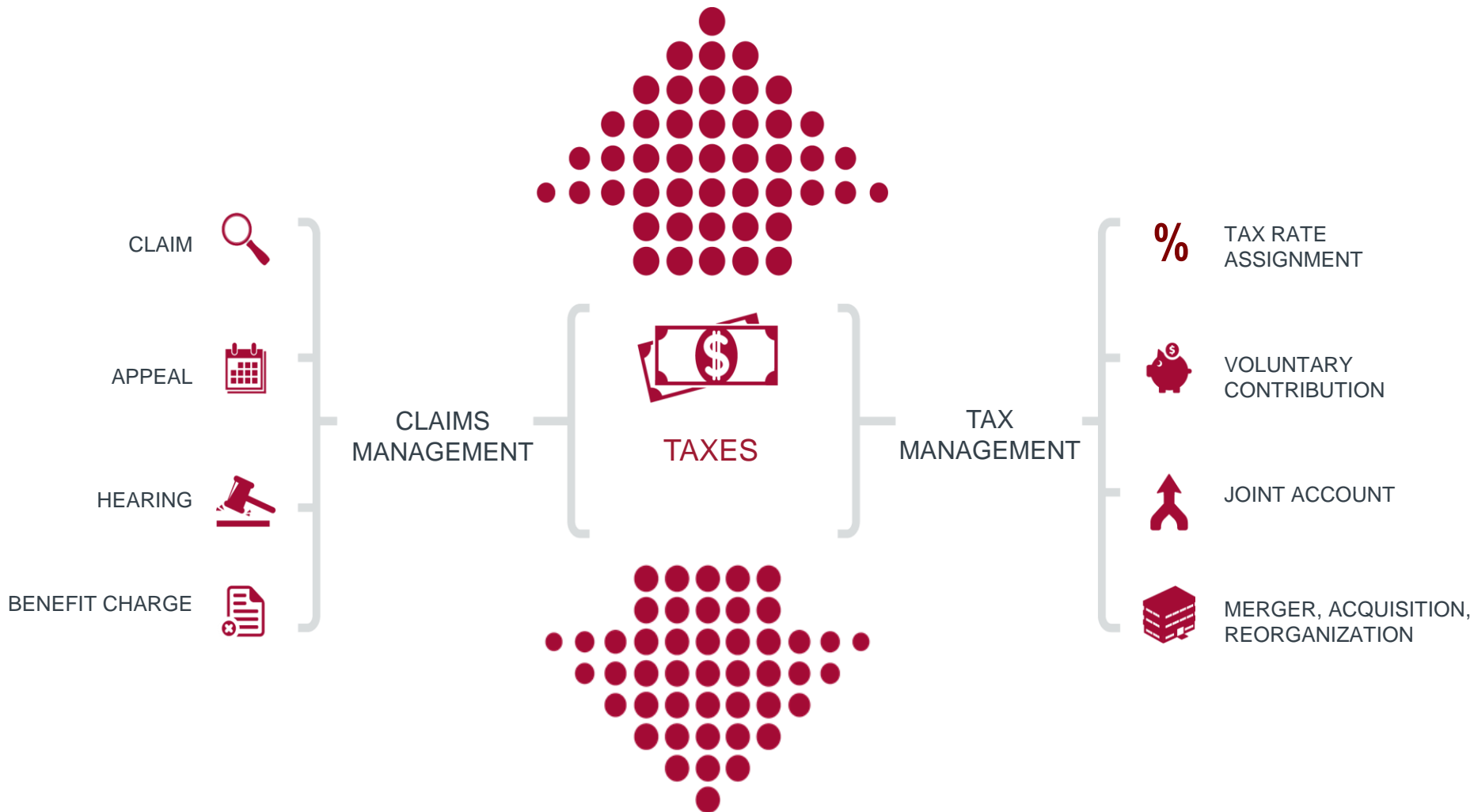




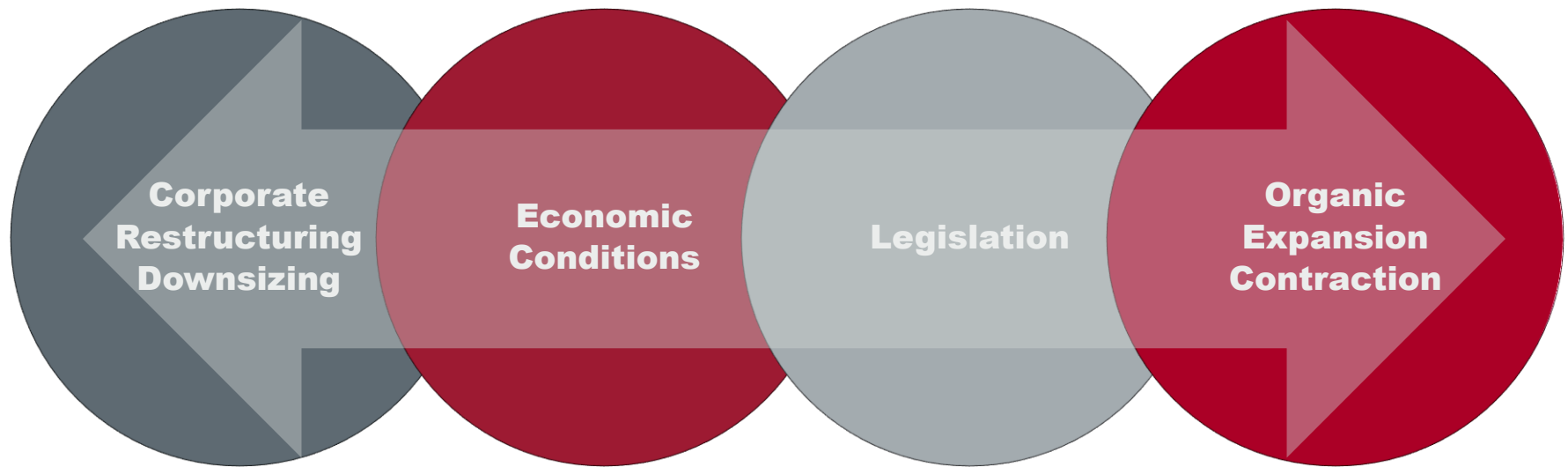
UNEMPLOYMENT BASICS



Unemployment tax rates are impacted by ***both*** claims and tax management



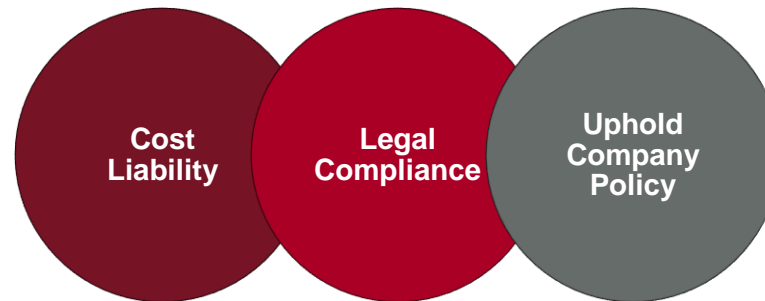
What Drives Unemployment?



Influences on Protests and Win Rates



Why Protest Unemployment Claims?



UI Integrity – Compliance Standards



What Does UI Integrity Do?

- Enforces Requirement that ALL Separation/Earnings be Provided at Initial Claim Filing



Consequences / Penalties

- Loss of Total Non-charging of an Employer's Account
- Loss of Appeal Rights
- Monetary Penalties



Pattern Of Failure

- Virginia
- Michigan
- North Carolina
- Arkansas

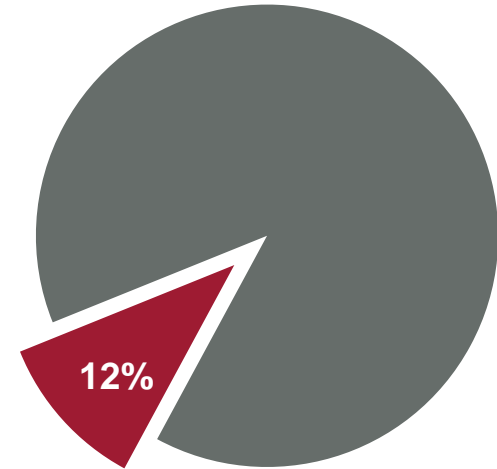


Despite UI Integrity, Unemployment Benefit Overpayments Remain Problematic

Overpaid Benefits

TOP 4 REASONS

- **37%** Work search errors
- **26%** Claimants collecting UI benefits and wages for the same week
- **17%** Lack of timely and complete separation information
- **6%** Able and available for work



■ \$3.71 billion in overpaid benefits

The potential impact to employers for a single improper unemployment claim is \$6,858* on average!

Source: U.S. Department of Labor: https://oui.doleta.gov/unemploy/bam/2017/IPIA_2017_Benefit_Accuracy_Measurement_Annual_Report.pdf

* Average benefits per first payment = benefits paid for all weeks compensated divided by the number of first payments (\$5,275) x replacement ratio (1.30%). U.S. DOL Unemployment Insurance Data Summary (Q2 2018).

Unemployment Claims Management requires significant attention from employers

States have shifted responsibility for “UI Integrity” to employers

Unemployment Costs are Significant

- Average cost is \$313 per employee
- Benefits drawn for average of over 15 weeks
- Average benefit paid is \$5,275

Claims Management is a complex process

- Guidelines and regulations differ by state
- Requires time, effort and expertise
- Diverts focus from core activities

States are Focusing on UI Integrity

- \$3.7B (12.09%) in improper payments
- Implementation of SIDES
- Relatively new compliance legislation and penalties

Change Your Way of Thinking!

A Protest Decision



Previously: Employers made a choice between responding or not responding to unemployment claims - often responding only if it was considered an improper claim.



A Matter of Compliance



Moving Forward: Employers are required to respond to all claims in order to remain in compliance with new regulations and avoid financial penalties.

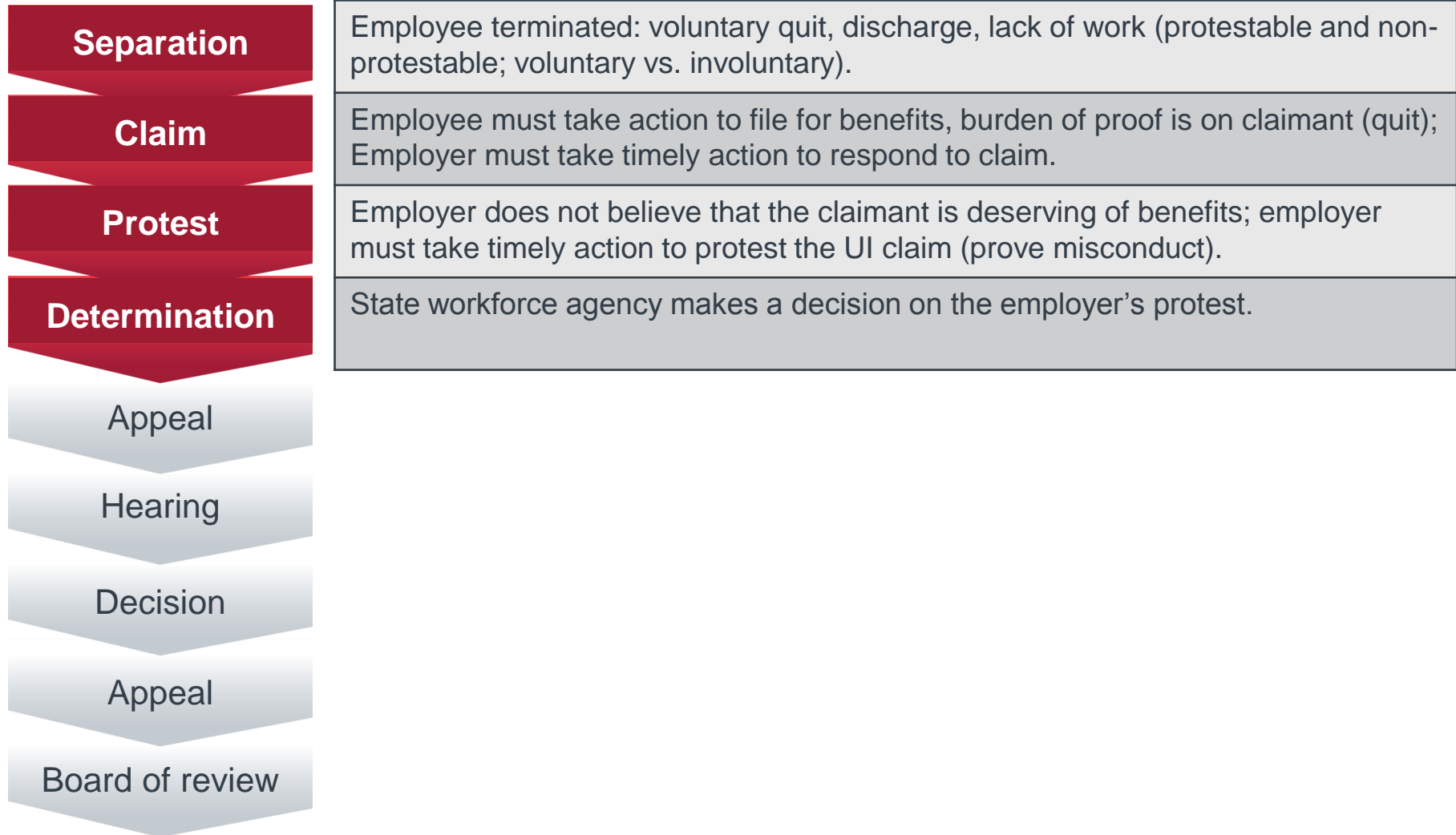


UNEMPLOYMENT CLAIM PROCESS

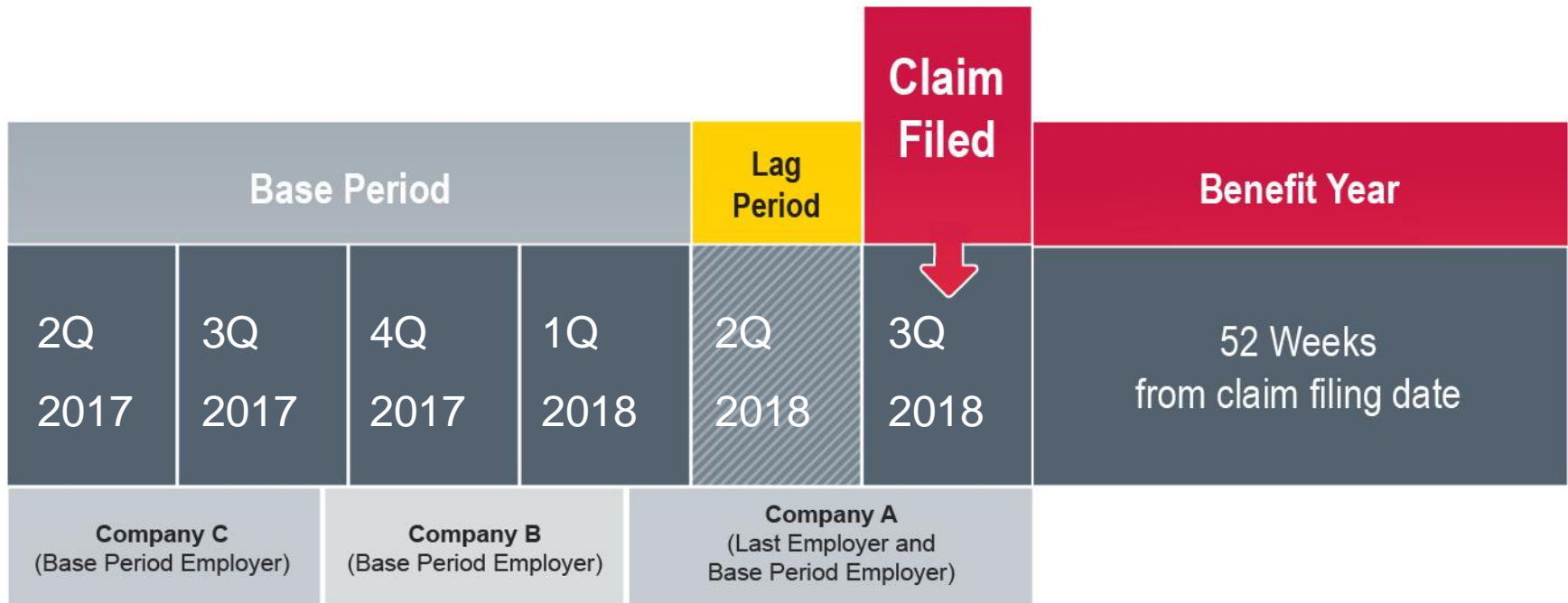


UI Claims Process:

It Starts with the Separation



Unemployment Claim Qualification/Eligibility



Last Employer Claim – The claim notice sent to the most recent employer from which the employee has separated.

Base Period Claim – The claim notice sent to each employer for which the claimant worked during the base period. Base Period earnings determine weekly benefit amounts and employers chargeable proportionate to wages paid.

Alternative Base Period (if applicable) – Former employees who fail to qualify under the original base period may qualify under an alternative base period on wages paid during the last four calendar quarters prior to the claim filing date.

Separation Reasons:

Non Protestable

An employee is typically eligible to collect benefits **ONLY** when they are out of work through no fault of their own, and who meet all other requirements.

EXAMPLES:

- *Job eliminated; temporary assignment ended, early retirement company initiated; probations EE - time of layoff*
- *Inadequate performance (with no willful misconduct)*
 - ✓ *Did not meet company qualification criteria*
- *Voluntary quit with good cause (e.g., follow a spouse)*
- *Absenteeism or tardiness with no willful, deliberate misconduct (out sick with doctor's note)*
- *Physical limitations*

Separation Reasons:

Protestable

An employee is usually **INELIGIBLE** for benefits if/when they cause their own unemployment.

- **EXAMPLES**

- *Voluntary quit – resignation (without good cause), early retirement, return to school, relocation*
- *Discharged for willful misconduct (policy procedure violation/safety security violation)*
- *Failure to adhere to work schedule / attendance / tardiness violations, Job abandonment, No call / No show*



VOLUNTARY QUIT & MISCONDUCT DEFINED



Voluntary Separation Statute

Common statutory language requires that a former employee/claimant show ***good cause attributable to the employer*** for leaving work voluntarily before any award of unemployment compensation benefits is allowed.

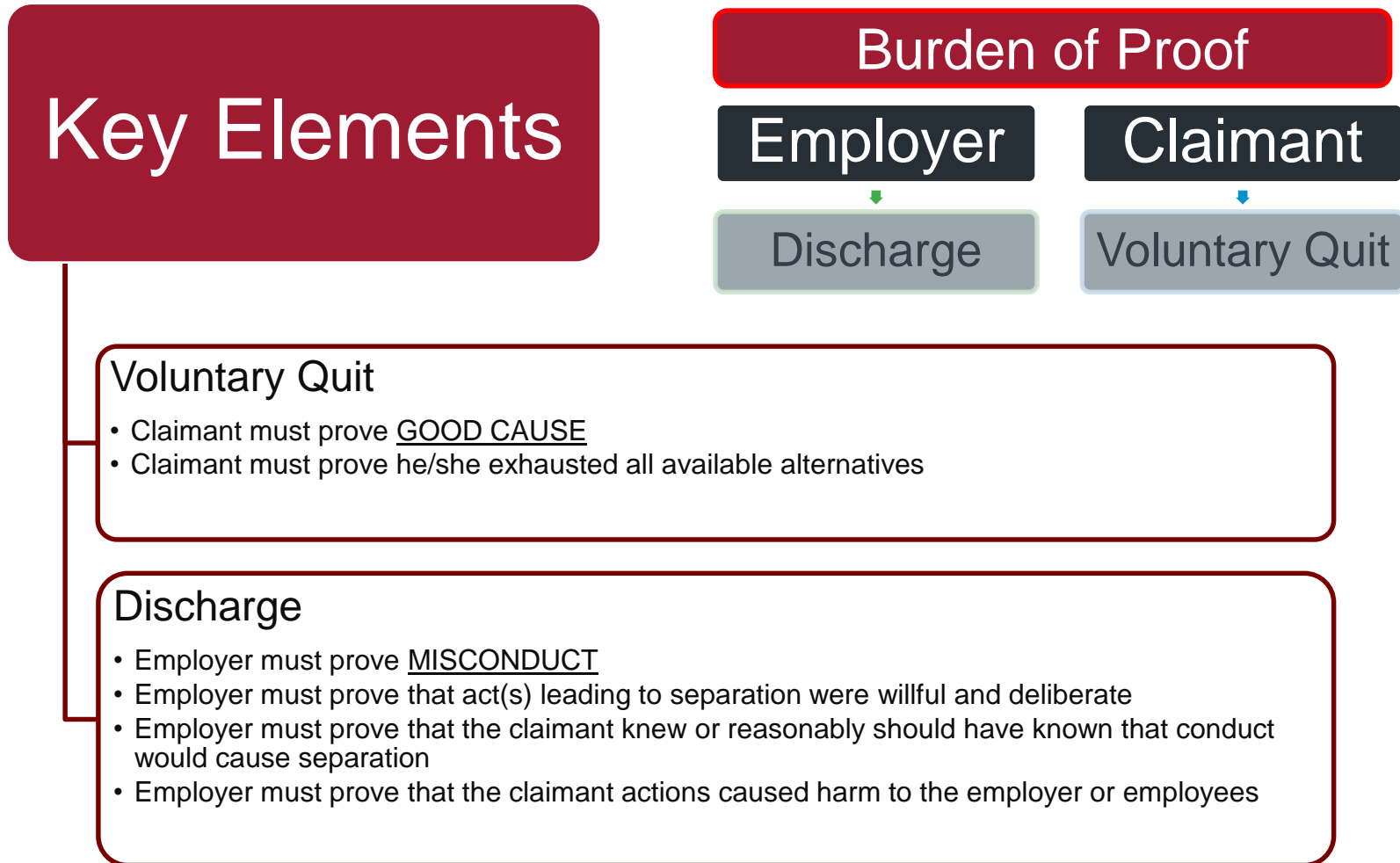


Involuntary Separation Statute

An employer who has discharged an employee must establish that there was ***deliberate misconduct*** and/or willful disregard of the employer's interest, in order to earn a denial of unemployment compensation benefits.



Key Elements of Voluntary Quit and Discharge



Best Practice: Voluntary Quit

Types of Quits

Resignation
without Notice

Job Dissatisfaction

Other Employment

Personal Reasons

Evidence of Quit

Copy of
Resignation Letter

Exit Interview

Identifying Witness(es)

Discussions
Leading to
Resignation

Person Informed
of Claimant's
Intent to Resign

Key Elements to Consider

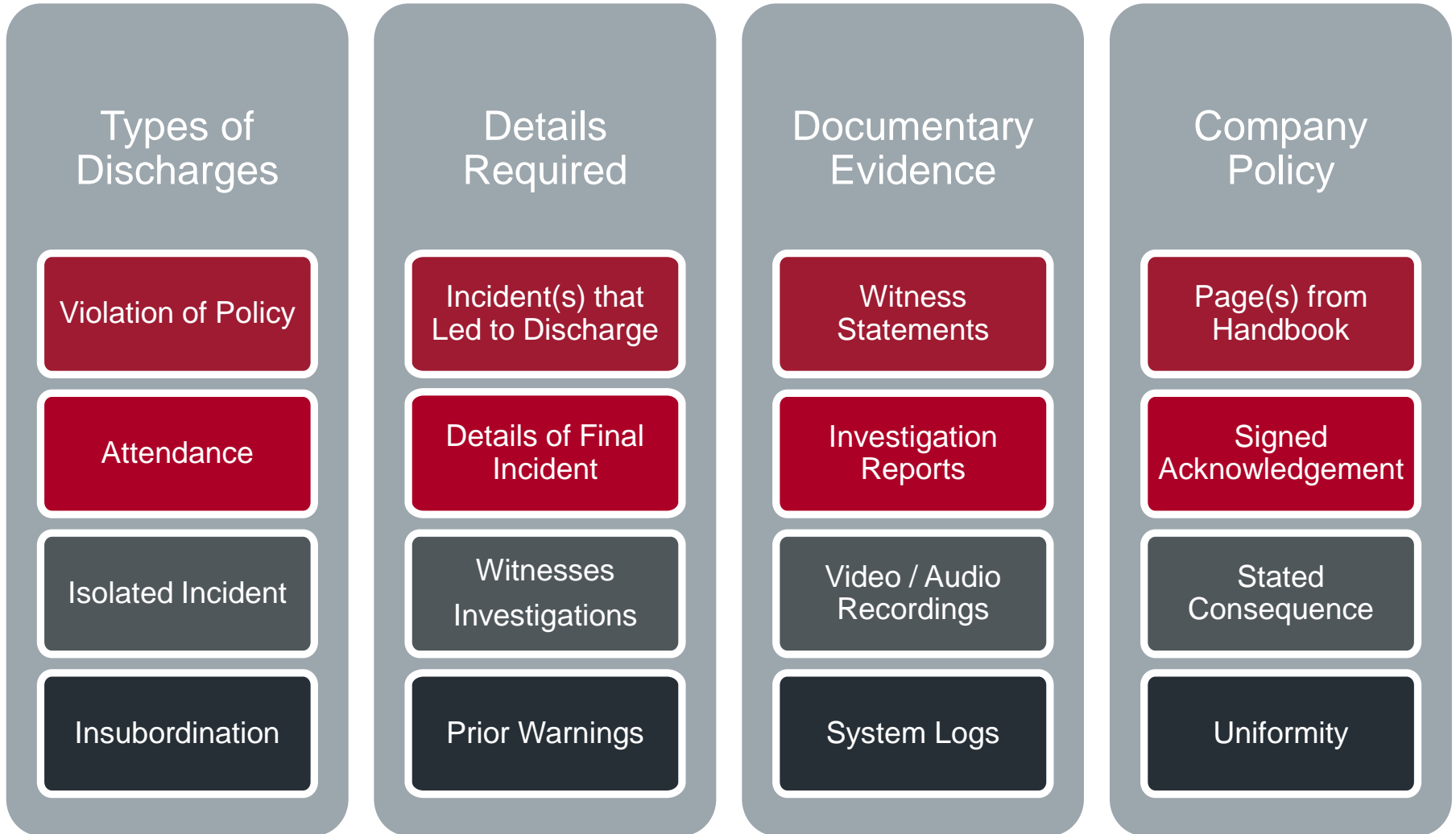
Was Continuing
Employment
Available?

Was Claimant
Allowed to Work
through Notice
Period?

Did the Claimant
Express Concerns
Prior to Quit?

Did Claimant Pursue
all Available
Alternatives?

Best Practice: Discharge/Misconduct



Best Practices:

Misconduct Supporting Documents

	Company Policy	Signed Acknowledgment	Warnings	Incident Reports	Additional Documentation
Alcohol or Drugs Company Property	Y	Y			<ul style="list-style-type: none"> ✓ Drug Test Results ✓ Chain of Custody (Drug Administrator) ✓ Rehab Program (Employee Explanation)
Absenteeism Tardiness	Y	Y	Y		<ul style="list-style-type: none"> ✓ Attendance Records ✓ Call-In / Time Sheets ✓ Dr. Note ✓ Corrective Action
Insubordination Personal Misconduct	Y	Y	Y	Y	<ul style="list-style-type: none"> ✓ Witness Statements (Testimony)
Theft Company Property	Y	Y			<ul style="list-style-type: none"> ✓ Signed/Written Admission ✓ Video Surveillance ✓ Police Report(s) ✓ Complete List (missing items)
Fighting Company Property	Y	Y	Y	Y	<ul style="list-style-type: none"> ✓ Witness Statements ✓ Med Records (injuries) ✓ Police Reports ✓ Convictions
Employee Harassment	Y	Y	Y	Y	<ul style="list-style-type: none"> ✓ Witness Statements (Testimony)
Monetary Funds Shortages/Overages	Y	Y	Y		<ul style="list-style-type: none"> ✓ Merchandise Receipts ✓ Cash Register Receipts
Company Property Destruction	Y	Y	Y		<ul style="list-style-type: none"> ✓ Written Admissions ✓ Signed Witness Statements ✓ Police Reports/Repair Estimates ✓ Property Damages (pics)
Employee Record Falsification	Y	Y	Y		<ul style="list-style-type: none"> ✓ Falsified Records ✓ Proof of Falsification



UNEMPLOYMENT APPEALS & HEARINGS



UI Claims Process: Appeals/Hearings



Claimant or employer timely appeal of the decision of the state workforce agency.

Informal administrative hearing where the claimant and employer present their case. Burdon of proof depends on which party terminated the relationship.

Findings of the administrative hearing.

Claimant or employer may then timely file an appeal of the decision of the ALJ.

The case then goes to a final Board or Commission so that a final outcome can be determined. Only other course of action is to take to court.

Initial Determination

State Agency

- Makes a determination allowing or disallowing UI benefits
- Mails determination to employer and claimant

Favorable to Employer

- Determines claimant ineligible for benefits and/or employer granted a non-charge
- Claimant reviews determination and makes decision on appealing

Unfavorable to Employer

- Determines claimant eligible for benefits
- Employer reviews determination and makes decision on appealing
- No Appeal: decision is accepted
- Appeal: request appeal hearing

State Agency
Makes
Determination



Employer or
Claimant Appeals
Determination



Appeal Hearing

Hearing Process

Telephone Hearings

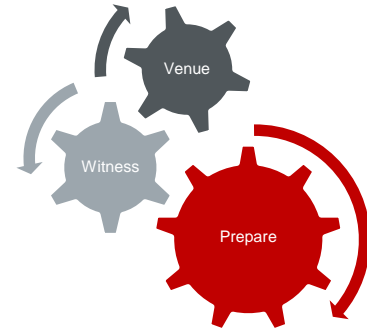
Becoming more common

Cell phone participation not recommended

In-Person Hearings

Some states require based on distance from hearing office

Excellent for reading body language and facial expressions



First Hand Witness

- Participate
- Testify

Venue

- In-person
 - Hearings arrive at least 15 minutes in advance
- Telephone hearings
 - Leave phone line open

Preparation

- Be prepared to answer basic employment questions
- Be prepared to discuss separation in-depth
- Be prepared to explain contents of documentation

Best Practices:

First Hand Witness(es):



Who knows the most about the separation?

Who was there?

Claimant's immediate supervisor or management member who received the resignation/discharged the claimant

Employees who created documentation/business records associated with the separation

Management/HR member(s) involved in the claimant's progressive disciplinary action/grievance procedure

Medical technician or qualified personnel who can fully explain drug/alcohol test results associated with dismissal

Employees who discussed the final incident/reason for resignation with the claimant

Claimant's co-worker or any other witnessing individual to the terminating incident

Loss prevention personnel who conducted the investigation or witnessed the claimant's confession in the incident (i.e., theft, destruction of company property, shortages, etc.)

Best Practices:

Day of Hearing Witness Responsibilities

Be ready 15 mins prior



Arrive 30 minutes prior



Have documents and know
chronological account of events

When in doubt, ask your representative
or Hearing Officer for clarification

Be ready to testify with personal
knowledge

Listen and answer with direct and
concise specifics

Be positive, keep to the issue, don't
volunteer information

Do not present testimony that was not
reviewed prior to the hearing

If you don't know the answer, say so. No false answers!

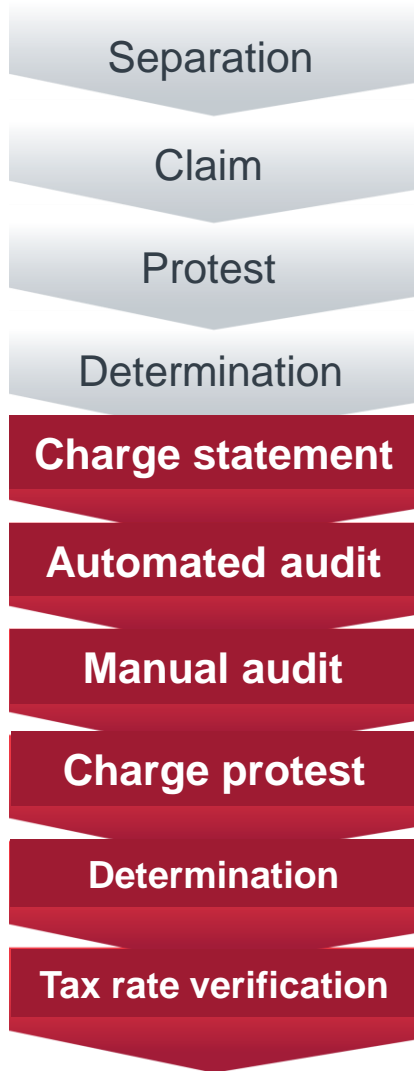


BENEFIT CHARGE AUDITS



UI Claims Process:

Benefit Charge Audits



List of claimant benefit charges the state workforce agency believes are the employers.

Ensures the accuracy of charges to an employer's account. Audits confirm the charges are in fact associated with a former employee, expected charges appear on the charge statement, charges associated with protest and hearing wins have been removed, etc.

Employer does not believe that a benefit charge appearing on the charge statement is proper; employer must take timely action to protest the charge.

State workforce agency decision on the employer's protest.

When the tax rate notice is issued by the state workforce agency, employer to verify the accuracy of the benefit charges used in the calculation.

Effect of Denied Claims

Legal Entity	2018 Actual Tax Rate Calculation	2018 Revised Tax Rate (Excluding Six Denied Claims)
Beginning Reserve	\$ 404,409	\$ 404,409
+ Contributions/Tax Paid	98,001	98,001
- <i>Benefit Charges</i>	(514,496)	(464,954)
= Ending Reserve	\$ (12,086)	\$ 37,456
Taxable Payroll	10,600,000	10,600,000
x Tax Rate	6.20%	5.60%
= Tax Liability	657,200	593,600
Savings	\$ 63,600	

Best Practice: Company Standards



Detailed and complete unemployment claim responses

- UI Integrity Act



Remain educated on regulatory changes

- UWC /Advisor Newsletters / Legislative Announcements / State Websites
- CCH (Online Compliance Tool)



Educate and partner with employee population

- Conference Calls / Web Training / Corporate Conferences



Develop and utilize metric reporting

- Trend identification and corrective action

Best Practices:

Managing the Unemployment Claim Process



RESPOND

- Identify a single point of contact who is accountable for the unemployment response process
- Create separate workflows for voluntary quits and discharges
- Adjust procedures and deploy training to reinforce mandatory response to every claim
- Establish job performance metrics based on response requirements for every team member working with unemployment claims



BE TIMELY

- Start with SIDES (in relevant states) to submit responses more efficiently
- Encourage standards that facilitate completion of claims/RFIs prior to the deadlines
- Create and maintain a library of payroll information, employee schedule records, files and current policies and procedures (for 12 and ideally 18 months post-separation)
- Establish job performance metrics based on state-defined response times for each employee submitting claim responses



BE COMPLETE

- Establish onboarding and separation workflows so correct documentation is consistently collected
- Anticipate response needs by separation type and state-defined requirements to create checklist-style response guidelines for common separations in your organization. Include both separation date and last day worked
- Provide proactive and regular training for all employees working on separation and unemployment cases

Questions and Answers



Thank
You!

