

# 2016 UWC UNEMPLOYMENT COMPENSATION ISSUES CONFERENCE

## UNEMPLOYMENT FRAUD: DEALING WITH THE “IDENTITY THEFT / IMPOSTER CLAIMS”

**NEIL MAC VICAR, VICE PRESIDENT & ATTORNEY**

### MHA UNEMPLOYMENT COMPENSATION PROGRAM

MICHIGAN HEALTH & HOSPITAL ASSOCIATION

2105 UNIVERSITY PARK DRIVE, SUITE A

OKEMOS, MI 48864

(517) 323-3152 nmacvicar@mha.org

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## UNEMPLOYMENT FRAUD . . .

- It's rampant . . .
- Employers and TPAs must “police” the claims; we should not rely solely on the state unemployment agency to identify fraud.
- In addition, employers and TPA must take the initiative to “prosecute” fraudulent claims; we should not rely on the state agency to stop the benefit payments and enforce the penalties

## TYPES OF UNEMPLOYMENT FRAUD

- Mainly, unemployment fraud comes in three (3) main forms:
  - #1: Claimant reporting an incorrect reason or type of separation [ie: someone discharged reports lay-off]
  - #2: Claimants not reporting wages earned while collecting unemployment benefits.
  - #3: **“Identity Theft”** claims filed by “imposters” in the name of employees who are still employed and who did not actually file a claim.

# DETECTING UNEMPLOYMENT FRAUD: IDENTITY THEFT/IMPOSTER CLAIMS

## HOW AND WHEN DOES THIS TYPE OF UNEMPLOYMENT FRAUD OCCUR?

- **BOGUS OR FALSE CLAIMS FILED BY IMPOSTERS:**
  - CLAIMS FILED WITH “STOLEN” NAME, SSN AND BIRTH DATE
  - THE ACTUAL EMPLOYEE IS STILL WORKING AND DID NOT FILE A CLAIM
  - LISTED REASON FOR SEPARATION:
    - LAY-OFF [2014 to current]
    - REDUCED HOURS OR UNDEREMPLOYMENT [2014 to current]
    - MOST RECENT: “TEMPORARY SHUT DOWN OR LAY-OFF” [2016]

## TEMPORARY SHUT-DOWN OR LAY-OFF

- In Michigan, there is high concentration of manufacturing [ie: automotive industry] employers who have periodic plant shut-downs for change-over [ie: new car model]
- The Michigan unemployment statute has a provision which “waives” the eligibility requirements for a 45 day period:
  - Good rationale: The employees are not forced to look for new jobs and will be available to return-to-work at the end of the temporary shut-down.
  - Not required to seek work or be available for full-time work during the first 45 days.
  - Also, not required to physically report to Michigan Works [ie: work center]
    - Result: Imposter can get benefits for 6 weeks without having to report “in-person”.

# FRAUDULENT OR IMPOSTER CLAIMS: WHAT HAPPENS?

THERE IS ONE (1) MAIN OBJECTIVE: PREVENT ANY BENEFITS FROM BEING PAID.

- Employer does not want improper payments made to its account
- The claimant does not want any benefit payments attached to their social security number for income tax purposes:
  - Next tax season [January-April 2017], the IRS and state department of treasury will expect unemployment benefits to be reported as income for 2016.
  - The affected employee will likely not receive a 1099-G, and may not even know that benefits were paid and attached to their SSN.
  - The last thing the affected employee and employer want is an employee being dragged into a dispute with the IRS and/or state department of treasury.
- FORTUNATELY, MHA-UCP HAS AN “INSIDE TRACK” TO GET FRAUDULENT CLAIMS “FROZEN” AND PREVENT PAYMENTS FROM BE DISBURSED. WE ACT QUICKLY!

## THE STATE AGENCY'S PROCESS FOR HANDLING FRAUDULENT CLAIMS:

- Initial filing: Claimant needs only a name, SSN and birth date to initiate a claim.
  - The birth date only needs to be within “one year” of the actual date
- Notice of the claim issued to the employer
  - If notice of fraud, then action taken; no response, then benefits paid.
- Notice of fraud from the employer? Then claim is “frozen/blocked” . . . but will benefit payments cease?
- An investigation is commenced.
- But . . . should there be more?

## **THE STATE AGENCY'S PROCESS FOR HANDLING FRAUDULENT CLAIMS: SHOULD THERE BE MORE?**

- Benefit payments should immediately cease upon notice from the employer that the claim is fraudulent.
- Formal notice should be provided to the employer and affected employee that the claim is frozen or blocked.
- No benefits should be paid until the claimant's identity is absolutely confirmed and the affected employee is interviewed.
- Credit should be issued to the employer for improperly paid benefits.
- A specific determination should be issued to the employer and the "affected employee" that the claim was fraudulently filed and that it rendered "null and void".
- Fraud claims that are not adjudicated within the DOL adjudication guidelines/mandates should not be used adversely against the state.



## FRAUDULENT OR IMPOSTER CLAIMS: WHAT HAPPENS NEXT?

- EMPLOYERS AND TPAs NEED TO CONTINUE MONITORING THE CLAIM CAREFULLY AND SEEK A DETERMINATION THAT THE CLAIM IS “NULL AND VOID”
  - IF BENEFIT PAYMENTS ARE MADE ON THE CLAIM, NOTIFY HUMAN RESOURCES AND THE AFFECTED EMPLOYEE
  - PROTEST THE BENEFIT CHARGES AND DEMAND CREDIT
- PROVIDE THE EMPLOYEE WITH A ‘TOOL KIT” WITH RELEVANT INFORMATION AND GUIDANCE:
  - THE MOST IMPORTANT STEP FOR THE EMPLOYEE: CONTACT THE STATE AGENCY AND AFFIRMATIVELY DENY FILING A CLAIM
- FORTUNATELY, THERE HAVE BEEN NO REPORTS BACK TO THE MHA-UCP ABOUT AN AFFECTED EMPLOYEE EXPERIENCING ADVERSE FINANCIAL ACTIONS IN OTHER AREAS [ie: authorized loans opened, unauthorized credit cards activated, etc.]

## PREVENTING FRAUDULENT CLAIMS:

- Require more than just the “claimant’s” name, SSN and DOB — require disclosure of other “identity proofing”, such as employer’s FEIN, employer’s state agency employer account number
- Require that a claimant must physically report to a workforce development office
- Require that claimant’s produce unquestionable evidence of identity — something more than a copy of a utility bill.
- Require that employee of workforce development office sign-off and document the evidence received and affirm their belief that the claimant was in-fact the employee [state accountability]
- Cease the payment of benefits via debit card — go to direct deposit or hardcopy check = deterrent effect.

## IN THE EVENT BENEFITS ARE PAID . . .

- Employer must protest/appeal the benefit charges
- Employer must request and seek credit for improper charges
- Employer must notify the affected employee:
  - Notice that benefits were paid
  - Notice that benefits may be reported to the state treasury for state income tax purposes.
  - Notice that benefits may be reported to the IRS for federal income tax purposes.
  - Encourage the affected employee to take other steps [file police reports, notify credit agencies]

**QUESTIONS?**

**COMMENTS?**

**DISCUSSION AND OPEN FORUM . . .**