Program Letter

United States
Railroad Retirement Board
Office of Programs

Quality Reporting Service Center **Phone: (312) 751-4992**

Email: QRSC@rrb.gov **Fax: (312) 751-7123**

Circular Letter UI-C-229

Released: October 1994
[Rev. September 2014]

CONTACT: Michelle Andrey
Policy and Systems

PHONE: (312) 751-3383

TO: **Chief Executive Officers**
Unemployment and Sickness Insurance Contact Officials

SUBJECT: **Employer Appeals of RUIA Benefit Determinations**

Introduction

The purpose of this circular letter is to review how railroad employers may exercise their rights to protest the award of unemployment and sickness benefits under the Railroad Unemployment Insurance Act (RUIA). Under Section 5 of the RUIA, the Railroad Retirement Board (RRB) provides base-year employers with notice of each claim for benefits filed by its employees. The employer then has 3 business days to submit information relevant to the claim before the RRB determines whether benefits are payable to the employee. If the RRB pays the claim, Section 5 provides that the RRB notify the base-year employer of the determination. Under the RRB's regulations, the base-year employer has 60 days from the date of the determination to file a written protest of the determination.

Although not required by statute, the RRB also sends notice of unemployment benefit applications and claims to each claimant's most recent employer, if different from the base-year employer. The most recent employer may submit relevant information about claims, but is not advised of payment determinations because only base-year employers have standing to protest such determinations.

Prepayment Claims Notification

The RRB provides **Form ID-4K, Prepayment Notice of Employees' Applications and Claims for Benefits under the RUIA,** through paper, electronic data interchange (EDI) or online via the Employer Reporting System (ERS)**.**

In the absence of prior arrangements to receive and respond to ID-4K claim messages electronically, printed notices are mailed to an official designated by the railroad on a daily basis, and include information about applications and claims normally received on the preceding business day. Employer information relative to an unemployment application or claim or to a sickness claim is to be provided to the RRB district office serving the area in which the employee resides. The name and telephone number of the appropriate district office are shown on the notice.

Railroads interested in receiving and responding to ID-4K claim messages via EDI should contact Ms. Michelle Andrey at (312) 751-3383.

To receive and complete an ID-4K online via ERS, you must first file Form BA-12, Application for Employer Reporting Internet Access. Complete all sections of the form except Section D, read the Access and Security Guidelines, and sign the certification. Have your supervisor or manager complete Section D. The form must be signed by an official of the company who has signature authority to sign RRB forms. The head of the company and those persons designated on Form G-117A, Designation of Contact Official, are assumed to have signature authority.

Form BA-12 cannot be completed or filed on the website. To deter fraudulent use of the site, the application must include original signatures (no reproductions) and be transmitted by US mail or express mail carrier. For security reasons, facsimiles are not acceptable. Within three to five days of receipt of an acceptable application, the RRB will mail your user ID and password along with instructions for accessing the site.

Regardless of the method an employer elects to receive Form ID-4K, employer information about an application or claim for benefits should be provided to the RRB within **3 business days** from the date that the RRB sends notice of the application or claim. Responses should be provided for applications and claims for which the employer has information that may be relevant to the proper payment of benefits. If the employer does not respond to the notice by the third business day, the claim is accepted as initial proof of the claimant's eligibility for benefits and is processed for payment.

Paperwork Reduction Act Notice

Section 5(b) of the RUIA requires the RRB to provide notice of claims for benefits to base-year employers. Employer responses to these notices are voluntary. Failure to provide information about questionable claims for benefits, however, may affect the

amount that an employer is charged in benefits and the employer's tax contribution rate under the RUIA.

Under the Paperwork Reduction Act, Federal agencies are required to estimate reporting burdens associated with their programs. The amount of time required for an employer to participate in the prepayment claims verification process varies depending upon the extent to which the employer is able to use automated systems. We estimate the average responding burden for employers to be as follows:

	Unemployment	Sickness
• Electronic data interchange (EDI)	25.2 hrs/yr.	16.8 hrs./yr.
• Form Letter ID-4K	2 min./ response	2 min./response
• ID-4K (Internet)	2 min/response	2 min/response
• Form Letter ID-4E	2 min/response	2 min/response
• ID-4E (Internet)	2 min/response	2 min/response

These are estimates based on employer experience nationwide. The estimates include time for reviewing instructions, obtaining the needed data, and reviewing the completed responses. Federal agencies may not conduct or sponsor, and respondents are not required to respond to, a collection of information unless it displays a valid OMB number. If you wish, send comments regarding the accuracy of our estimates or any other aspect of this program, including suggestions for reducing reporting time, to the Chief of Information Resources Management, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

Notice of Claim Determinations

In addition to requiring the RRB to provide notice of each claim prior to a decision to pay or deny benefits, the RUIA requires that "when the RRB initially determines to pay benefits to a claimant..., the RRB shall provide notice of such determination to the claimant's base-year employer or employers." Upon receipt of notice that an individual's claim for benefits has been allowed, either in whole or in part, the claimant's base-year employer(s) may request a review of the determination to pay benefits, if the employer believes the determination is incorrect.

Form ID-4E, Notice of RUIA Claim Determinations, is used to provide notice of each determination to allow benefits on a claim and is also available to employers through paper, electronic data interchange or ERS. The following information is provided with each determination:

- Employee's **Social Security Number**
- Employee's **Name**
- **Claim Period Beginning Date**
- **Claim Profile** - A series of 14 numeric codes indicating the days claimed and allowed, and the days denied in the claim period. The

codes are explained in the attachment.

- **Gross Payable** - The amount of benefits payable with respect to the claim
- **(Change)** - The amount of benefits previously not reported to the employer. If the notice is the first one with respect to the claim, the amount will be the same as the "Gross Payable." If the determination results in a payment on a claim which was previously denied in whole or in part, or was not paid pending completion of an investigation, the amount of the additional benefits paid as a result of the determination is shown.
- **Type** - Indication as to whether the determination applies to a claim for sickness benefits **(SI)** or a claim for unemployment benefits **(UI)**.
- **Benefit year (BY)** - Two-digits indicating the benefit year for which the claim was filed, e.g., "13" indicates the benefit year normally beginning July 1, 2013, and ending June 30, 2014.
- Employee's **Payroll Identification Number**.
- **Board Office** - Indicates the city and state of the RRB district office responsible for adjudication of the employee's claims. You can locate the nearest RRB district office by either visiting our website at www.rrb.gov or by calling our toll-free Help-Line number at 1-877-772-5772.

Appeal of RRB Determinations

The same provisions mentioned above apply with respect to the instructions for receiving Form ID-4E via electronic data interchange and ERS. Upon receiving notice of the RRB's determination to pay benefits for a claim, the claimant's base-year employer may request reconsideration of the determination. The request for reconsideration must be in writing and should explain the basis for the request (i.e., why does the employer disagree with the determination). Any documentation supporting the request for reconsideration should also be submitted. The request must be received at an office of the RRB within 60 days of the date of the Form ID-4E notice. A request for reconsideration should be mailed to the RRB office identified under the heading "Board Office" on the Form ID-4E.

Once the request for reconsideration is received, the RRB office responsible for adjudication of the claim will review and issue a decision on the request for reconsideration. If the RRB **district office** is the adjudicating office, the decision will be referred to the Bureau of Field Service for review prior to issuance. The employer will be notified in writing of the decision on reconsideration.

If the decision on reconsideration is to sustain the determination to allow benefits on a claim, the employer may appeal the decision to the RRB's Bureau of Hearings and Appeals. An appeal must be filed on Form HA-1EMP, Base Year Employer Appeal Under the Railroad Unemployment Insurance Act, and should fully explain the reason

for the appeal. In addition, the appeal should reference the date of the decision that is being appealed and identify the office that issued the decision. The appeal must be filed with the Bureau of Hearings and Appeals within 60 days from the date of the notice of the decision on reconsideration. Form HA-1EMP, which is available on our website, should be mailed to:

Director of Hearings and Appeals
U. S. Railroad Retirement Board
844 North Rush Street
Chicago, Illinois 60611-2092

If a base-year employer is not satisfied with a decision on an appeal from the Bureau of Hearings and Appeals, the employer may appeal to the three-member Board. An appeal to the Board must be filed on Form HA-1EMP within 60 days from the date of the notice of the decision of the hearings office.

In accordance with Section 5(c) of the Railroad Unemployment Insurance Act, benefit payments to a claimant will continue, despite the filing of a request for reconsideration or an appeal. Benefits are subject to recovery from the claimant, however, if the decision on the request for reconsideration or appeal results in a finding that the benefits were erroneously awarded.

What Determinations Can Be Appealed?

Any determination made by the RRB that results in payment of either unemployment or sickness benefits to a claimant may be appealed by the claimant's base-year employer.

Common determinations made by the RRB which an employer may appeal based on factual issues include the following:

Unemployment Issues

- Is **remuneration** attributable to any days claimed as days of unemployment?
- Is the employee **available for work** on days claimed as days of unemployment?
- Was the employee willing, able and ready to accept suitable work on days claimed as days of unemployment? Was the employee unemployed because he or she failed to follow prescribed procedures for recall to work? Did the employee refuse to accept suitable work? Did the employee mark back on an extra board? Did the employee fail to exercise seniority rights to suitable work?
- Did the employee **voluntarily leave work** without good cause?
- Did the employee claim benefits for days that he or she did not work because of **mileage or work restrictions?**

Sickness Issues

- Is **remuneration** attributable to any days claimed as days of sickness?
- Is the employee **able to work** (i.e. not sick or injured) on days claimed as days of sickness?

Remember the following when considering whether to request reconsideration or to appeal a determination of the RRB:

- There is no disqualification in the RUIA for unemployment related to suspension or discharge. An employee who is unemployed because of a suspension or discharge can receive unemployment benefits if otherwise eligible for benefits.
- An employee who voluntarily leaves work **with good cause** is not disqualified from receiving unemployment benefits if otherwise available for work.
- The determination as to whether an employee has sufficient service and compensation in the base-year to be qualified for benefits is made based on information provided by employers as part of their annual service and compensation reports. Remember that because of provisions for extended and accelerated benefits, not all benefit years begin July 1 and end the following June 30. Check the benefit year designation on Form ID-4E. The base year for the benefit year is the calendar year preceding the benefit year. For example, the base-year for "BY-14" is calendar year 2013.

Below are examples of how a base-year employer might request reconsideration.

Railroad A receives Form ID-4E stating that its employee has claimed and been paid unemployment benefits for May 1 through 14. Payroll records show that the employee marked off the extra board on May 2, 3, and 4. (The railroad did not inform the RRB of the employee's mark off when the RRB sent the prepayment claims verification notice.) Railroad A sends a letter within 60 days to the RRB district office requesting reconsideration of the determination to pay unemployment benefits for May 2, 3, and 4. The railroad explains that the employee was not available for work on the days at issue and encloses a copy of the timekeeper's record showing that the employee marked off. After investigation, the RRB determines that the employee was not available for work, recovers the appropriate benefits from the employee, and sends a notice to the railroad of the determination made on its request.

Railroad B receives Form ID-4E showing the payment of unemployment benefits to an employee for days in the employee's paid vacation period. The railroad sends a request for reconsideration to the RRB district office that documents the days to which vacation pay is attributable. Upon review, the RRB determines that the employee received remuneration for days claimed as days of unemployment, bills the employee for the amount recoverable, and notifies the railroad of the determination.

Railroad C receives Form ID-4E indicating continued payment of sickness benefits

despite the railroad having recently concluded a personal-injury settlement with the employee for the same infirmity. If the railroad did not prevent the sickness benefit payment by responding to the prepayment notice, it can file a request for reconsideration to prevent further payments for the same infirmity and to cause recovery of any benefits not already recovered from the settlement under Section 12(o) of the Railroad Unemployment Insurance Act.

Railroad D receives Form ID-4E indicating that an employee who was discharged for failure to pay union dues was paid unemployment benefits. The railroad files a request for reconsideration on the grounds that the employee, in effect, voluntarily quit work by failing to pay union dues. The RRB's regional office issues a decision to the railroad upholding the payment of benefits. The railroad then files Form HA-1EMP, Base Year Employer Appeal Under the Railroad Unemployment Insurance Act, with the Bureau of Hearings and Appeals, within 60 days. The hearings officer contacts both the railroad and the claimant and holds a hearing because there are issues of fact. The hearings officer's decision is favorable to the railroad, and the employee is denied further benefits and billed for the overpayment. The employee appeals the decision to the three-member Board who notifies the railroad of the appeal. After evaluating the record, the Board sustains the hearings officer's decision.

We welcome information from employers to help ensure that benefit payments are accurate and are paid only to those who are entitled to them. Erroneous benefit payments that cannot be recovered remain charged to the base-year employer under the experience rating system. Therefore, we emphasize the importance of employers providing information in response to the RRB's prepayment claims verification notices in order to prevent erroneous payments and to avoid collection action. And, where employers disagree with an RRB determination, they should exercise their rights to request reconsideration.

If you have any questions or need additional information about appealing RUIA benefit determinations, please contact the manager of your local RRB district office.

This letter is also available on our website at www.rrb.gov.

Attachment

Attachment

Claim Profile - Day Codes

Unemployment

0 Day not claimed
1 Claimed day of unemployment/available for work
2 Employed, day not claimed
3 Claimed day of unemployment, denied for miscellaneous reasons
4 Claimed day of unemployment, denied because of work restrictions and/or earnings test
5 Claimed day of unemployment, denied due to late registration
6 Claimed day of unemployment, denied for miscellaneous reasons
7 Claimed day of unemployment, benefits reduced because of receipt of social insurance
8 Claimed day of unemployment, denied because of unavailability for work
9 Claimed day of unemployment, denied because of receipt of remuneration

Sickness

0 Day not claimed
1 Claimed day of sickness
2 Employed, day not claimed
3 Claimed day of sickness, denied for miscellaneous reasons
4 Claimed day of sickness, denied due to improper advanced registration
5 Claimed day of sickness, denied due to improper delayed registration
6 Claimed day of sickness, denied for miscellaneous reasons
7 Claimed day of sickness, benefits reduced because of receipt of social insurance
8 Claimed day of sickness, denied due to ability to work
9 Claimed day of sickness, denied because of the receipt of remuneration