

**From:** Stokes, Richard L  
**Sent:** Monday, July 16, 2012 10:59 AM  
**Subject:** RE: Unemployment on Temporary Workers

Your situation is probably due to the fact that the City is an Unemployment Reimbursing Employer. Being a reimbursing employer denies you certain benefits and one is the ability to try to deny claims. That is what the Unemployment Act says about reimbursing employers.

## **REIMBURSING EMPLOYERS (Section 50-7-403(h))**

### **Definition**

Governmental employers and nonprofit employers (employers qualifying under Section 501(c)(3) of Internal Revenue Code) have the option of electing to become reimbursing employers rather than premium paying employers.

Reimbursing employers are essentially self-insuring. They are required to reimburse the Department dollar for dollar for their proportionate share of benefits paid to a former employee (see BENEFIT PROVISIONS, CHARGING OF EMPLOYER FOR BENEFITS).

Reimbursing employers are not experience rated and do not pay FUTA taxes, so they do not pay any of the costs of administering the unemployment insurance program.

### **Reporting Wages**

Reimbursing employers must report wages paid to their employees on the quarterly Wage Report (LB-0851) and Premium Report (LB-0456) (see WAGE AND PREMIUM REPORTS), by Internet at <http://tnpaws.net> (see WAGE AND PREMIUM REPORTS, Filing Wage and Premium Reports on the Internet (TNPAWS)). Reimbursing employers with 250 or more employees must file their Wage Reports electronically (see WAGE AND PREMIUM REPORTS, Filing Wage Reports Electronically (mandatory with 250 or more employees)).

On the Premium Report, reimbursing employers report their Total Number of Workers as of the 12th of Each Month of the Quarter in the center of the report and report their Total Wages on line 1.

Reimbursing employers do not report Excess Wages, Net Taxable Wages, or Premiums Due.

Reimbursing employers must complete the Wage Report in its entirety.

### **Benefit Payments and Charges**

Claimants who worked for reimbursing employers receive the same benefits in the same manner as claimants who worked for premium paying employers, and benefits are

charged to reimbursing employers in the same manner as benefits are charged to premium paying employers.

Reimbursing employers reimburse the Department dollar for dollar for all benefits charged to them regardless of the reason for the separation of the former employee.

**Reimbursing employers are not eligible for a benefit noncharge as are premium paying employers. (see BENEFIT PROVISIONS, CHARGING OF EMPLOYER FOR BENEFITS). This is because reimbursing employers do not pay anything into the unemployment insurance system until benefits have been paid to a former employee.**

When a nonprofit employer or a governmental employer elects to reimburse for their portion of benefits, they enter into an agreement with the Department that they will pay back any benefits paid to their former employees. When an employer enters into that contract they give up statutory rights to the noncharge (T.C.A. 50-7-403(d)(1)(B)(iii) and (C)(ii)). If a reimbursing employer finds that it does not prefer the reimbursing status, such employer has the choice to elect to be a premium-paying employer.

Reimbursing employers do not get a noncharge because they in a sense get a “free ride”. Reimbursing employers do not pay the Federal Unemployment Tax (FUTA), which pays the administrative cost of the unemployment program, and they do not pay anything toward building the Trust Fund. In exchange, they take a risk that benefits could be paid to their former employees and they will have to reimburse the Department dollar for dollar for those benefits.

If reimbursing employers did not cover the costs of all benefits paid based on the wages they paid their former employees, these costs would have to be unfairly paid by all premium-paying employers in the form of higher premium rates.

A worker who quit or was discharged by a reimbursing employer can become eligible for benefits if he removes the imposed disqualification. In such event, the reimbursing employer would be charged for benefits paid. An Employer Notice of Claim Filed card (LB-0502) is sent to the reimbursing employer at this point in case the employer wants to make a job offer to the individual rather than pay the unemployment benefit charges.

Reimbursing employers reimburse the Department for their share of benefits even when the benefits were a result of an overpayment (benefits paid in error to a claimant). Once the Department has received repayment of the overpayment from the claimant, the Department will send the reimbursing employer a refund if requested by the employer. If the employer does not request a refund, the repaid overpayment will be applied to future benefit charges.

I hope this information is helpful. Feel free to contact me if you have questions or I can be of any further assistance.

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