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Subject: Update from the Labor Member



FROM THE DESK OF

JOHN BRAGG
LABOR MEMBER

U.S. Railroad Retirement

April 16, 2020

It has been a couple of weeks since my last update, and while things are settling down somewhat, there are a couple of issues I wanted to bring to your attention.

Since my last note, we added a question to the Railroad Retirement Board's (RRB) Q&A's regarding the eligibility to unemployment insurance (UI) benefits and a voluntary furlough. Question 2, which was included in the Q&A document when first published, explains that ordinarily, someone who goes on a voluntary furlough is not eligible to receive UI benefits because they are considered to have left work voluntarily. Basically, the voluntary furlough is viewed as the equivalent of an approved leave of absence. The new question, added as question 3 under the UI section, asks "What if I have the opportunity to accept a voluntary furlough under a negotiated agreement with my rail employer and rail union?" The question was added due to inquiries agency field personnel received regarding agreements which have been reached with some railroad employers regarding furlough situations during the pandemic. The answer explains that, if an employee is covered by a negotiated COVID-19 relief plan, it is possible that an employee on a "voluntary furlough" will be eligible for UI benefits, so long as the employee is considered to be in inactive status and does not utilize paid vacation days or personal days. The answer goes on to recommend that employees should contact the RRB if they are uncertain how the furlough under a program offered by an employer would be treated for UI purposes. If you are developing a COVID-19 relief program, we strongly recommend that the plan be reviewed by the RRB's Office of General Counsel to evaluate its impact on eligibility to benefits. If you need assistance in getting a document reviewed, please don't hesitate to reach out to my office.

I also wanted to mention a couple of issues which have been brought to our attention regarding the application process of filing for benefits. In my last update, in recognition of the difficulty in obtaining a physician's signature during these times, I discussed the use of Form G-93, *Statement of Claimant or Other Person*, when filing an application for sickness benefits, in lieu of submitting Form SI-1b, *Statement of Sickness*, which must be signed by a physician. The original

instruction provided that written statements did not need to be provided on any specific form. However, to remain in compliance with rules regarding the solicitation of information from the public, the written statement should be on the Form G-93. We have been advised that sickness applications are being submitted with written statements rather than a completed Form G-93. Just a reminder that the Form G-93 should be completed and submitted when filing an application for sickness benefits if the applicant is unable to submit the Form SI-1b.

In addition, there are situations where employers are approving requests by employees to self-quarantine rather than report to work, and employees believe that they are eligible for benefits. It is important to note that an employer approving a request to self-quarantine is the equivalent of a voluntary leave of absence, and the employee would not be eligible for benefits so long as the circumstances surrounding the employee's absence from work do not change. However, if an employer instructs or directs an employee to stay home due to exposure or potential exposure to the virus, that employee is eligible to apply for sickness benefits. Employees who are involuntarily furloughed by their employer as a result of the virus are eligible for unemployment benefits.

Finally, as noted in the Q&A document, unfortunately, the RRB is not able to immediately pay eligible employees CARES Act benefits. However, agency personnel are diligently working towards the goal of making those payments and I will be certain to share with you when the agency will be able to begin to issue those payments.

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