
MANAGEMENT DIRECTIVE

530.22 Amended
Number

COMMONWEALTH OF PENNSYLVANIA GOVERNOR'S OFFICE

Subject:

Unemployment Compensation, Noncovered Employment –
"Major Nontenured Policymaking or Advisory Positions"

By Direction Of:


Thomas G. Paese, Secretary of Administration

Date:

November 20, 1996

This directive contains policy for employes in "major nontenured policymaking or advisory positions" who are excluded by law from unemployment compensation coverage. This amendment designates additional employes as being in "major nontenured policymaking or advisory positions" and requires personnel officers to take action, when necessary, concerning the new designations.

1. PURPOSE. To ensure that Commonwealth employes separating from state service receive unemployment compensation benefits only if they are eligible for those benefits. This directive focuses on the definition and treatment of employes in "major nontenured policymaking or advisory positions" who are excluded by law from unemployment compensation coverage.

2. SCOPE. Applies to employes in all agencies under the Governor's jurisdiction.

3. OBJECTIVE. To ensure that wages earned in noncovered employment are deleted from financial determinations made by the Office of Employment Security (OES).

4. DEFINITIONS.

a. Noncovered Employment. For purposes of this directive, employment excluded from unemployment compensation coverage by *Article X, Section 1002(11) of the Pennsylvania Unemployment Compensation Law*. Section 1002 provides, in part:

". . . for the purposes of this article, the term 'employment' shall not include services performed by:

"(11) Individuals serving in positions which, under or pursuant to the laws of this Commonwealth, are designated as (i) a major nontenured policymaking or advisory position; or (ii) a policymaking position the performance of the duties of which ordinarily does not require more than eight hours per week."

b. Nontenured. Non-civil service.

c. Base Year. The first four of the last five completed calendar quarters immediately preceding application for benefits.

d. Key Staff Aides. Press Secretary, Legislative Liaison, Community Relations Director, and Executive or Special Assistants. •

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- **e. Policy Office Professionals.** In the Governor's and each agency's Policy Office, the office director and support staff who are responsible for developing the agenda for the administration or agency.

5. POLICY. The Commonwealth as an employer interprets "major nontenured policymaking or advisory positions" as non-civil service bureau directors or equivalent and above, attorneys, key staff aides, and policy office professionals. Examples of such positions include:

- Agency Heads
- Associate Deputy Secretaries
- Chief Counsels and all Attorneys
- Correctional Superintendents
- Deputy Secretaries
- Executive Directors
- Hospital Superintendents
- Key Staff Aides to an Agency Head, a Deputy Secretary, or the Governor
- Office Directors
- Policy Office Professionals
- Regional Directors, Regional Commissioners, Regional Administrators, etc.
- Senior Management Service Managers

6. RESPONSIBILITIES. Agency heads are responsible for:

- **a.** Identifying major nontenured policymaking or advisory positions as stated in Section 5. POLICY and ensuring that wages earned in those positions are neither reported to OES nor used in financial determinations made by the OES.
- **b.** Ensuring that their agency is represented at all unemployment compensation hearings. Where Article X determinations are at issue, an agency representative must be familiar with relevant court decisions concerning designation of "major nontenured policymaking or advisory positions."
- **c.** Notifying employes occupying "major nontenured policymaking or advisory positions" that wages earned in those positions are not covered under the law and are not used in calculating UC benefits. Employe should also be advised that covered wages earned in another position or in other employment are not affected.

7. PROCEDURES.

Procedure 1. Personnel/Payroll System Designation.

Action By	Step	Action
OA Personnel.	1.	Based on the designation of positions in this directive as "major nontenured policymaking or advisory," if the entire classification is exempt from UC coverage, input Tax Status Code indicating exemption for the classification. Agencies cannot override this coding for individual positions.
Agency Personnel Office.	2.	Based on the designation of positions in this directive as "major nontenured policymaking or advisory," inputs the appropriate Tax Status Code (see Table 15, Employee Tax Status Codes on Personnel/Payroll System; 01 for "major nontenured policy/advisory") as follows: <ul style="list-style-type: none"> a. If the position is filled, use Transaction Codes 9040/8000 and overlay a value of any data element on screen code 21, select screen code 12, and enter 140 and Tax Status Code 01. This action will override existing coding for the classification that does not exempt the classification. b. If the position is vacant, use Transaction code 9040, select screen code 12 and enter 140, and enter Tax Status Code 01. This action will override existing coding for the classification that does not exempt the classification.

Action By	Step	Action
<ul style="list-style-type: none"> Agency Personnel Office. 	3.	Ensures that proper Tax Status Code is assigned to the position when employees are hired, promoted, or transferred into noncovered employment and when new positions are created.
	4.	Notifies each affected employe at time of hire, or preferably when a job offer is made, or at time of promotion that the position to be held is a "major nontenured policymaking or advisory position" and, therefore, not covered by the UC Law. Providing a copy of this directive is acceptable notification. Also, notifies incumbents if and when positions are newly designated as "major nontenured policymaking or advisory."

Procedure 2. UC Claim Process.

Action By	Step	Action
Claimant.	1.	If employed during any part of the base year by the Commonwealth, completes a questionnaire when applying for benefits that helps identify major nontenured policymaking or advisory positions.
<ul style="list-style-type: none"> Job Center. 	2.	<p>a. Processes Form UC-42, Application for Benefits, in accordance with established procedures, if the claimant was covered entirely by civil service (and worked more than eight hours a week) or if the claimant's questionnaire responses do not reflect major policymaking or advisory duties.</p>

Action By	Step	Action
Job Center.	b.	Forwards Form UC-42 to Bureau of Unemployment Compensation Benefits and Allowances (BUCBA) for all claims that may be major policymaking or advisory or for which sufficient information is not available.
Agency Personnel Office.	3.	Completes Form UC-45, Notice of Application and Request for Separation Information, as usual, upon receipt (see <i>M530.9, Unemployment Compensation Insurance Administrative Manual</i> , for instructions). In addition, for any claimant which the agency identifies as being in noncovered employment as stated in Section 5. POLICY, attaches the following statement to Form UC-45:

In accordance with Management Directive 530.22, this claimant has been designated as being in a major nontenured policymaking or advisory position, resulting in noncovered employment under Article X, Section 1002(11). Wages should not have been reported for this claimant. If recent wages were reported, please contact this office.

	4.	Establishes tickler file for claims identified as noncovered and follows up with Job Center if no further information about the claim is received within two weeks (see Step 6) or if a Form UC-44F, Financial Determination, is received indicating the questioned wages were used in the financial determination.
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Action By	Step	Action
<ul style="list-style-type: none"> • Bureau of Unemployment Compensation Benefits and Allowances. 	5.	On claims forwarded from the Job Center for disposition, obtains additional clarifying information from the employing agency, as necessary.
Agency Personnel Office.	6.	<p>a. Is notified of a financial determination, via Form UC-44F, only if wages paid by the agency during the base year were used in the determination. Reviews Forms UC-44F to determine if the employment is considered covered.</p> <p>b. All claims involving noncovered employment should be placed in tickler file to ensure receipt of Forms UC-44F. A Form UC-44F will not be received if noncovered wages are not used in the determination. The agency must contact OES if confirmation that the employe is financially ineligible is needed.</p>
	7.	If the position is determined to be covered employment and the agency has designated the position as noncovered employment, appeals the Financial Determination within 15 days from the date of determination.
Agency Representative.	8.	Attends referee hearings where Article X determinations are at issue, whether the appeal is filed by the claimant, the agency, or by OES. The agency representative's degree of participation in the hearing depends on whether or not the agency has designated the position as noncovered employment.

Action By	Step	Action
Agency Representative.	9.	Testifies that position was designated as "major nontenured policymaking or advisory."
	10.	Presents a copy of <i>Management Directive 530.22</i> that establishes the position as major nontenured policymaking or advisory. Evidence would also include proof that wages were not reported.
Agency Personnel Office in Coordination with Legal Counsel.	11.	Appeals to the Board of Review any referee decisions that do not confirm the agency's designation of noncovered employment.
	12.	Ensures agency representation at any further hearings or oral arguments.
	13.	Appeals to Commonwealth Court any claims for which evidence has established the position as major nontenured policymaking or advisory.

This directive supersedes Management Directive 530.22 dated November 7, 1989.