

WHY DOES SOUTH CAROLINA PAY UNEMPLOYMENT BENEFITS TO PEOPLE WHO COULD BE WORKING?

Letter to SC State Legislators, From George Roper – SCAPS Member

Agency employed temporary employees earn between two and three percent of the total annual wages paid in South Carolina. However if a tabulation of total state unemployment benefits paid to Agency temps were compiled, a safe assumption is that they draw a considerably higher percentage of state unemployment benefits than their payroll percentage represents. This is because a significant portion of South Carolina's unemployment benefit dollars are paid to Agency temps who, rather having been "laid off", have simply completed their most recent temporary assignment but then filed for unemployment benefits rather than abide by their Agency employment contract and check back with their Agency for reassignment. Because the SC Employment Security Commission considers those temps to be "laid off" exactly like a full time employee who loses his/her job, the temp can begin drawing benefits without even having notified his agency that his assignment has ended. Theoretically SCESC's interpretation means that everyone of Roper's 700-800 weekly temp employees could become eligible to apply for unemployment every time that their last assignments ends. Once this occurs, SCESC applies the same procedure to both types of employees so that, too often, the effect is to negate the Agency's ability to apply the employment contractual agreement that the temp signed when hired thereby making it extremely difficult, sometimes impossible, for the Agency to reassign the temp (who continues to draw benefits) to new temporary job assignments.

This situation could be easily prevented if SCESC were to draw a distinction between a temp employee who has completed a temporary job assignment and a full time employee who has been "laid off" from his regular job. All it would require is that when someone applies for UE benefits they be asked if the job they left was their regular full time job or an Agency provided temporary assignment and, if temp, have they complied with the Agency's procedure of (1) having advised the Agency that their temporary assignment has ended (and why) and (2) reported back to the Agency on a regular basis and fulfilled their contractual requirement to make themselves available for reassignment, but that no satisfactory assignment has been offered? If their last job was with a Temp Agency and their answer is "no" to either of the two questions they should be instructed not to file for UE until they have satisfied both requirements. This distinction is made by 33 states in the United States. Because SCESC does not draw any distinction between an Agency temp whose assignment has ended and a regular laid off employee, SCESC's procedure immediately makes it more difficult for the Agency to put the temp employee back to work and off the unemployment rolls (especially if the temp employee prefers the weekly unemployment benefit to his/her weekly Agency wage net of FICA and state / federal withholding taxes deducted from his weekly paycheck). SCESC's procedure, once the temp enrolls for UE benefits, requires that when the Agency has a suitable new assignment available and is unable to reach the "laid off" temp by telephone (which the Agency employment agreement requires to always be on file and operating), the Agency must offer any new assignment by "certified letter – return receipt requested". This requirement alone eliminates 95% or more of temp assignments many Agencies are able

to offer because the client employer expects to be notified as soon as possible that the Agency has filled his job order along with the name of the temp employee who will be reporting. Furthermore, in almost every case the client employer needs the temp to report to work sooner than the time frame allowed to send a certified letter, have it received by the temp, allow the temp a suitable time to consider the offer (?) and then to either accept or refuse the new assignment. And, of course, during this time the temp, who probably would already have been reassigned if he had been regularly reporting to the Agency, continues to draw state UE benefits. Unfortunately now that the Agency must treat the temp like any regular "laid off" employee, ongoing SCESC procedure creates additional difficulties for the Agency (thereby continuing to hamstring it's ability to reassign). Instead SCESC's procedure requires that any new job assignment offered must satisfy SCESC's criteria of a "bonafide job offer".

The "bonafide job offer" means that parameters of relatively equivalent work, pay, distance and time travel to the new assignment, etc. must be equally or more favorable to the employee than his most recent assignment. This means that the pay cannot be less than the last assignment even if other recent assignments paid considerably less. Agency cannot require the temp to drive ten or so miles further than the last assignment, and if the skills involved in the last assignment were of a higher level (and presumably, pay) than other recent assignments the temp has worked, the new "bonafide" job offer must be equivalent to or higher than his last assignment. The net effect is that once SCESC accepts and treats the temp who has completed a temporary assignment the same way they do a full time person laid off from a regular job, the Temp Agency's ability to reassign the temp becomes considerably more difficult. Perhaps the most tragic aspect from the standpoint of the state unemployment fund is that many of those temps drawing benefits are precisely the less skilled people that many large, full time employers will not hire because of their limited schooling, skills, etc. Temporary assignments represent an opportunity for the temp to prove himself or herself to the larger full time employer who may then hire him as one of their own regular employees, which occurs quite frequently. The temp's odds of obtaining full time employment continue to increase as he/she is exposed to more full time employers.

The point is that if SCESC would draw the aforementioned distinction (temp vs full time laid off employee) when the employee applies for benefits, more of South Carolina's hard to place, less skill/education people can continue to work as an Agency temp and then have the opportunity to progress to a full time job and a long-term work career. Anything that encourages an employee at this level to draw unemployment benefits rather than earn a wage and advance his career is as unfair to the individual temp employee as it is to the private sector South Carolina businesses that must pay increasingly higher state employment taxes as a result of this terrible waste of state unemployment tax dollars.