

Changes at SCDEW Impacting Temporary Staffing Firms

Law Change

House bill H3442 passed by the South Carolina General Assembly and signed into law by Governor Mark Sanford on March 30, 2010 made several changes to unemployment benefit eligibility.

Section 41-35-110 of the 1976 Code was amended to include the following requirement for unemployment benefit eligibility for those individuals employed in the temporary staffing industry:

- ▶ No claimant is eligible to receive benefits following the completion of a temporary work assignment unless the claimant shows that he informed the temporary employment agency that provided the assignment of the assignment's completion, maintained on-going weekly contact with the agency after completion of the assignment, and the agency has not provided a subsequent assignment for which the claimant's prior training or experience shows him to be fitted or qualified.

A failure to report back to the employer will result in a determination that the employee was separated from that employer due to a voluntary quit which may result in ineligibility for unemployment benefits.

It is important to note that these rules will only apply if the temporary staffing agency is considered to be the worker's "bona fide employer." To be the bona fide employer, the individual must have earned at least eight times his maximum weekly benefit amount while in the employ of the company.

Responsibilities of Temporary Staffing Firm:

The requirement that employees report back to the staffing firm at the end of their assignment should be conveyed to all new employees by the employer in writing at the time that they accept the position. A failure to notify employees of this responsibility may delay or invalidate their ineligibility.

To ensure compliance with this law, it is imperative that all firms respond promptly to requests for separation information from SCDEW. If it is determined that the former employee failed to report back at the completion of a temporary assignment for further work, SCDEW can stop benefit payments and charges against the employer's account can be removed.

If additional work becomes available for the former employee after the completion of the assignment, SCDEW encourages the company to present the employee with a "bona fide offer of work." If the employee is claiming unemployment during this period and refuses an

offer of work, they will be considered ineligible for further benefits. It is the responsibility of the employer to notify SCDEW if a claimant refuses an offer of bona fide work within seven days of the refusal.

Joint Effort Leads to Lower Taxes

SCDEW does not have the capacity to track and monitor weekly contact between claimants and temporary staffing firms. The same objective, to get claimants reemployed as quickly as possible and to avoid excessive benefit charges to individual employers, can be more easily accomplished with a joint effort by SCDEW and the temporary staffing industry.

Prompt response to requests for separation information, ongoing contact to inform the agency of a job refusal on the part of a UI claimant, and educating temporary employees as to their responsibilities and potential consequences if they fail to meet those responsibilities will ensure that benefit charges to the temporary staffing industry remain low.

Monitoring and reporting violations of these new provisions is in the company's best interest. If a claimant fails to report after the completion of an assignment or refuses to accept a job offer, they should be ineligible for benefits. Reporting these violations to SCDEW will lower the benefit charges to the firm. Lower benefit charges will result in a better experience rating and ultimately lower tax rates.

Please help us keep tax rates for all South Carolina businesses low by helping to enforce the eligibility provisions in 41-35-110. If you have any questions regarding benefit eligibility or if you have specific questions regarding charges to your account, please contact SCDEW.