



BENEFIT ISSUES: “QUALIFICATION” AND “ELIGIBILITY”

In addition to disagreeing with the calculation of the weekly benefit amount, or with the wages that were used to do so, an employer may contend that the claimant should not draw benefits either because the claimant should have been “disqualified” from receiving benefits, based on the reason for separation or a refusal of work, or should be “ineligible” for benefits based on not being able to work, or available for work, or seeking work in a week or series of weeks.

BENEFITS ISSUES

Disqualifications

- Voluntary Leaving
- Discharge for Misconduct or Intoxication
- Refusal of job referral, interview, or offer

The three most common reasons for disqualifying a claimant for benefits is that they voluntarily left work without good cause attributable to the employer; or that they were discharged for misconduct connected with the work or for intoxication at work; or that they refused, without good cause, an offer of suitable work, or a referral to a job or job interview.

BENEFITS ISSUES

Disqualifications

- Theft
- Willful Destruction of Property
- Assault and Battery
- Drugs

Other more serious incidents for the discharge might have been theft connected with the work, willful destruction of property at work, assault and battery at work, or drugs, which includes being in possession of drugs illegally at the work place, or failing a drug test administered by the employer or their agent, or refusing to take a drug test.

BENEFITS ISSUES

Voluntary Leaving (quits)

Burden of proof is on the claimant to show:

- Leaving was voluntary but with good cause attributable to the employer, or
- Leaving was “involuntary” for medical reasons

The burden of proof is on the claimant to prove either (1) that he/she left work voluntarily but that the reason was attributable to the employer, or (2) that he/she left work involuntarily for medical reasons.

BENEFITS ISSUES

Voluntary Leaving (quits)

NEW LAW –

If claimant asserts leaving was “involuntary” for medical reasons, claimant must:

- Provide medical documentation
- Show unsuccessful attempt to secure alternative work from employer
- Show unsuccessful attempt to secure leave of absence.

In the case of an involuntary leaving for medical reasons, the claimant must show three things:

(1) That the claimant was advised by a medical professional that continuing to work at the job would be injurious to the claimant’s health; and (2) that the claimant unsuccessfully attempted to secure an alternative job with the employer that would not jeopardize his/her health; and (3) that the claimant unsuccessfully attempted to secure a medical leave of absence from the employer.

BENEFITS ISSUES

Voluntary Leaving (quits)

If claimant asserts leaving was voluntary but with good cause attributable to the employer, the claimant must show:

If the claimant leaves voluntarily, he/she must assert (and convince the UIA or the Administrative Law Judge) that the leaving was “with good cause attributable to the employer” in order for the claimant to avoid disqualification for benefits.

BENEFITS ISSUES

Voluntary Leaving (quits)

- The claimant brought a bona fide problem to the employer's attention, and
- The problem was not corrected

To show "good cause attributable to the employer," the claimant must allege that he/she brought a bona fide problem to the attention of the employer, and that after a reasonable time the problem was not corrected.

BENEFITS ISSUES

Voluntary Leaving (quits)

A bona fide problem could include, for example:

- Sexual harassment by co-workers
- Clear safety hazard
- Bouncing paycheck

Some examples of “bona fide” problems would include sexual harassment by co-workers, or a clear safety hazard (such as exposed wires, greasy floor, malfunctioning equipment), or bouncing paychecks.

BENEFITS ISSUES

Voluntary Leaving (quits)

Examples of disqualifying quits:

- Quit due to unpleasant work environment (except sexual harassment)
- Quit due to transfer of spouse (except military spouse)

Most claimants who quit a job, though, are disqualified for voluntarily leaving the job because their reasons do not show a good cause “attributable to the employer.” Examples would include a worker who quits because the work environment is unpleasant, or because the worker’s spouse was transferred to another area. However, if the worker’s spouse was transferred by the military, then the claimant will not be disqualified for leaving, but the employer’s account will not be charged.

BENEFITS ISSUES

Voluntary Leaving (quits)

NEW LAW –

- A 3 day, no-call/no show is now regarded as a quit issue, if the worker is notified of the method of contact at time of hire.

One of the new provisions of the law deals with a worker who is notified at the time of hire how to report an absence, but then is later absent for 3 days or more and fails to notify the employer of the reason for the absence. Previously, under case law, this was held to be a disqualifying discharge, but under the amendment it is a disqualifying quit. That is in line with how most employers regard such a separation – as an “abandonment” of the job.

BENEFITS ISSUES

Voluntary Leaving (quits)

NEW LAW –

- A worker who becomes unemployed for negligently losing a requirement for the job made clear at the time of hire will be disqualified as a quit.

Under prior case law, if a worker negligently lost a requirement of the job, he/she was considered to have quit the job and was disqualified. An example would be a cab driver who lost his/her driver license by accumulating too many points on his/her driving record.

The amendment establishes by statute that this is a disqualifying quit.

BENEFITS ISSUES

Voluntary Leaving (quits)

A claimant who is disqualified for voluntarily leaving must satisfy a “rework” before again becoming entitled to benefits:

12 x Weekly Benefit Amount

If a claimant is disqualified for quitting a job, he/she cannot begin or resume drawing benefits unless/until he/she goes back to work for some employer and earns at least 12 times his/her weekly unemployment benefit amount – and then gets laid off from that job (or is separated under non-disqualifying circumstances).

BENEFITS ISSUES

Voluntary Leaving (quits)

At the hearing, the burden of proof is on the claimant, but the employer still needs to be present at the hearing with a knowledgeable witness to respond.

Although the burden of proof is upon the claimant in a voluntary leaving case, as explained earlier, the employer should still be present at the hearing to respond to allegations made by the claimant as to the “good cause attributable to the employer” because the employer might dispute that such reasons existed, or that such reasons constituted “good cause attributable to the employer” for quitting.

BENEFITS ISSUES

Discharge

The burden of proof is on the employer to show:

- That the discharge was for “misconduct”
- That the “misconduct” occurred in connection with the work.

In the case of a “discharge” or “firing,” the burden of proof is on the employer to show two things: (1) that the discharge was for “misconduct,” and (2) that the “misconduct” occurred in connection with the work.

BENEFITS ISSUES

Discharge

"Misconduct" defined:

"[Misconduct in an unemployment compensation case is] ... conduct evincing such wilful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer. On the other hand, mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not to be deemed 'misconduct' within the meaning of the [unemployment compensation] statute."

The Michigan Supreme Court has provided a definition of "misconduct" in an unemployment compensation case. It is comprised of two sentences. The first sentence describes what is disqualifying "misconduct" for purposes of unemployment insurance. The second sentence describes conduct that could justify discharge but that would not result in disqualification for unemployment benefits.

BENEFITS ISSUES

Discharge

- Can be single incident
- Can be multiple, minor incidents which, in the aggregate, show misconduct. But the final incident must show some degree of wrongdoing.

Misconduct can be found as the result of a single, serious incident, or as the result of a number of minor incidents, none of which alone would be considered misconduct sufficient to justify disqualification, but which in the aggregate would constitute disqualifying misconduct.

BENEFITS ISSUES

Discharge

Can be a single, serious incident

- Single act of violence
- Single act of insubordination
- Single act of theft or willful destruction

A single incident of misconduct resulting in disqualification could include an act of violence at the workplace, or of insubordination to supervision, or of theft or willful destruction of work property.

BENEFITS ISSUES

Discharge

Can be multiple, minor incidents

- Warnings show “sentence 1” disregard and therefore misconduct
- Documentation of warnings helps to prove they were given

As far as the multiple, minor incidents are concerned, giving warnings about them through “progressive discipline” establishes that the worker was aware of the employer’s expectations, and that by ignoring the warnings the worker was disregarding the standards expected and articulated by the employer and was thus engaging in “sentence 1” misconduct.

Although testimony about the warning could suffice at a hearing, it is always better to put things like that in writing.

BENEFITS ISSUES

Discharge

Can be multiple, minor incidents

- Condonation of claimant's repeated infractions weakens case for misconduct
- Condonation of others' similar infractions weakens case for misconduct.

Sometimes an employer will condone a worker's repeated infractions, and then discharge the worker when the infraction happens again. This condonation weakens the employer's argument that the action was truly "misconduct." Also, if an employer condones the infraction from others but not from the claimant, it weakens the argument about "misconduct" and also suggests that there was some other reason for singling out the claimant over others.

BENEFITS ISSUES

Discharge

There must be a connection with the work for the discharge to be disqualifying.

In order for the discharge to be disqualifying, the employer has the burden of proving a connection with the work.

BENEFITS ISSUES

Discharge

A claimant who is disqualified for a discharge for “simple” misconduct must satisfy a “rework” before again becoming entitled to benefits:

17 x Weekly Benefit Amount

A claimant who is discharged and disqualified for simple “misconduct” must requalify for benefits by “rework” before again becoming entitled to benefits. The rework requirement for “discharge” is 17 times the claimant’s weekly unemployment benefit amount.

BENEFITS ISSUES

Discharge

A claimant who is disqualified for assault and battery, theft, willful destruction, drugs, must satisfy a 26-week requalification period (by certification with MARVIN or \$220 in earnings), lose 13 weeks of benefits, and will draw NO benefits from involved employer.

If a claimant is discharged for certain specific, more serious kinds of misconduct, including assault and battery, theft, willful destruction of property, or drugs (possession, testing positive, refusal to be tested), the claimant, if disqualified, must serve a 26-week period of requalification and benefits will be reduced by 13 weeks. However, even if the requalification period is served, no benefits are payable based on wages paid by the employer involved in that kind of discharge. If there are other base period employers, benefits can be paid based on work with them, but again the balance of weeks of benefits is reduced by 13 weeks.

To serve a requalification period, the claimant, in each week of the 26-week period, must either (1) earn at least \$220 a week, or (2) certify to MARVIN.

BENEFITS ISSUES

Discharge

NEW LAW –

If a claimant, who was not previously disqualified after a discharge, is convicted of theft within 2 years of the discharge, the discharge issue will be reopened and a disqualification will be imposed.

It requires a 26-week requalification and a 13-week benefit reduction.

A new provision is that if a claimant who was discharged from work for theft was not previously disqualified but is convicted by a court for theft or a lesser included offense within 2 years of the discharge, the disqualification will be reopened and the claimant will be disqualified. The requalification period is 26 weeks, and benefits are reduced by 13 weeks, and no benefits are paid based on wages with the employer involved in that disqualification

BENEFITS ISSUES

Discharge

Proof at the hearing would be

- The documented warnings
- The keeper of the business records
- An eyewitness to the incident(s)

To prove its case at a hearing, the employer would want to produce the documents giving the claimant warnings, even if those documents were previously provided to the Agency. Also, the keeper of the business records should be present to authenticate, and testify from, those documents. Witnesses of the events surrounding the discharge should also be present or available to testify.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

The burden of proof is on the employer to show:

- That a specific offer was made directly to the claimant and was received by the claimant.

That the employer made a specific offer of work that was available at the time the offer was made, and that the claimant received the offer.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

The burden of proof is on the employer to show:

- That the offered work was "suitable"
- That the claimant refused the offered suitable work.

The employer also has the burden to show that the offered work was suitable, and that the claimant refused the offered, suitable work.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

The burden of proof then shifts to the claimant to show “good cause” for refusing the offered, suitable work.

The burden of proof then shifts away from the employer and to the claimant to show that, despite receiving the offered suitable work, the claimant had good cause for refusing it.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

“Suitability” factors include:

- Degree of risk to health, safety, morals
- Physical fitness

To be “suitable,” the law requires the Agency to consider several factors, such as that the work must not present a risk to the claimant’s health, safety, or morals; that it must be consistent with the claimant’s physical fitness.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

“Suitability” factors include:

- Prior training and work experience (but note amendment)
- Length of unemployment

The offered work must be within the claimant’s prior training or work experience (until the worker has received half the benefits on a claim – as will be discussed in a moment).

Also pertinent to a refusal of an offer of work is the length of time the claimant has been unemployed.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

“Suitability” factors include:

- Prospects for securing work in customary occupation
- Distance of work from residence

Other “suitability” considerations include the claimant’s prospects for securing work in his or her customary occupation, and the distance of the work from the claimant’s residence.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or
Interview with former employer

“Suitability” factors include:

Distance of work from residence:

- Age and health
- Time of day of travel
- Travel time

Included in the considerations about distance are: the age and health of the claimant; the time of day in which the travel occurs; and the amount of time involved in the travel.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or
Interview with former employer

“Suitability” factors include:

Distance of work from residence:

- Traffic conditions
- Availability of transportation

Travel distance also takes into account traffic conditions at the time of travel, and the availability to the claimant of a means of transportation.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

“Suitability” factors include:

- Wage differential – offered work pays at least 70% of wage before unemployment

The wage being paid by the offered work is also a consideration. Until the claimant has received half of his/her benefits on a claim, a wage will be suitable if it is at least 70% of the worker's most recent former wage.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or
Interview with former employer

“Suitability” factors include:

- Wage differential – **NEW LAW:**

After the claimant has drawn half of the benefits on a claim, the wage will be suitable if it pays:

Under the amendments to the law, once the claimant has received half the benefits on a claim, the wage will be suitable if it pays:

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

- The state minimum wage of \$7.40 per hour, and
- The average wage for that job in the locality, and
- 120% or more of the claimant's weekly unemployment benefit amount.

At least the state minimum hourly wage of \$7.40 an hour; and at least the average wage for the same work in the same locality; and at least 120% of the worker's weekly unemployment benefit amount.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or
Interview with former employer

The average wage for a job in a
local area can be found online at

[http://milmi.org/?PAGEID=67&SU
BID=124](http://milmi.org/?PAGEID=67&SUBID=124)

To determine the average wage paid for a particular job in a particular geographic area ("Metropolitan Statistical Area" or "MSA") in the State, the Agency will use a website that provides that information. The address of that website is shown in this slide.

BENEFITS ISSUES



Here's what the website looks like. You can choose a general occupational area, then drill down to a specific type of work. Then, you can choose a specific MSA within the state to find the average wage paid for that job in that area.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

- And the claimant must accept a job that is not necessarily within his/her past experience or training.

Under the amendment, the claimant must accept any job that meets each of those wage criteria, even if the claimant has no experience or training in that kind of job.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or
Interview with former employer

NEW LAW –

- The claimant must diligently apply for work of which the claimant is notified by the UIA

The new law requires that a claimant who is notified by the UIA of the availability of work (which typically happens when an employer tells us so) must diligently pursue application for that work.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or
Interview with former employer

NEW LAW –

- The claimant must apply for work with employers that could reasonably be expected to have suitable work available.

The amendments also require a claimant to apply for work with employers that could reasonably be expected to have suitable work available.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

A disqualification requires requalification for a 13-week period (by certification with MARVIN or \$220 in earnings), and benefits are reduced by 13 weeks.

A claimant who is disqualified for refusing, without good cause, a job offer, a job referral, or a job interview with a former employer, must serve a 13-week period of requalification, and benefits will be reduced by 13 weeks.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

At the hearing, it is helpful to have evidence of delivery of the offer, and of the specifics of the offer.

Having a knowledgeable witness present is very important

At the hearing, it is useful to have a copy of the job offer and evidence of its delivery. The testimony at the hearing of the person who made offer or mailed it would be very useful and convincing to an Administrative Law Judge.

BENEFITS ISSUES

Refusal of Job Offer, Referral, or Interview with former employer

See Fact Sheet #144, *Information for Employers Who Offer Work that a Claimant Refuses*, for details on how to report a work refusal to the UIA.

When a claimant refuses an offer of a return to work, or even an offer of some limited hours of work from a base period employer, the claimant can be disqualified for the refusal of the job offer, or benefits can be reduced based on the “lost wages” that were offered but not accepted. Typically, a claimant will tell the employer he or she doesn’t want to accept even a few hours of work because that will reduce unemployment benefits. But that’s the point of making the offer. So, the UIA has a new Fact Sheet detailing the effect of such refusals, and how an employer can report this information to the Agency to either cause the claimant to be disqualified, or his/her benefits to be reduced.

BENEFITS ISSUES

Refusal of Job Offer Interview with fo

State of Michigan
Department of Learning &
Regulatory Affairs
UNEMPLOYMENT
INSURANCE
AGENCY

**Information for Employers
Who Offer Work that a Claimant Refuses**

When an Employer Offers "Suitable Work," the Claimant Can Lose Unemployment Benefits if He/She Refuses It.

Key Points: Before the claimant has received 50% of his/her benefits on an unemployment claim, the claimant must accept a job that pays at least 70% of his or her gross wage before becoming unemployed. In addition to wages, other factors considered in determining suitability of a job are:

- Degree of risk to the claimant's health, safety, and morals
- Claimant's physical fitness for the job
- Claimant's prior training and work experience
- Length of the claimant's unemployment
- Claimant's prospects for securing work in his/her customary occupation
- Distance of work from the claimant's residence (taking into account the claimant's age and health, time of day of travel, travel time and traffic conditions, and availability of a means of transportation).

After the claimant has received 50% of his/her benefits on a claim, the claimant must accept a job even if it is outside of his or her past training and experience, if it pays at least the most minimum hourly wage of \$7.40 an hour, if it pays at least the average wage in the locality for this kind of work, and if it pays at least 120% of the claimant's weekly unemployment benefit amount. The other factors in determining suitability listed above, are also still taken into account.

What an Employer Should Do.
The employer should communicate the offer of suitable work to a specific worker, with specific details about the job. Providing a "sign up" sheet for workers to use in responding to a generalized offer will not suffice.

If a worker refuses an offer of work, the employer should notify the UIA of the refusal (in writing to P-1) how the claimant refused, but P-1011-1108 or P-6, 1-17-10-0627) and provide the following:

- A copy of the offer, including specifics on who offered it and how it was communicated to the claimant (e.g., verbal, written, printed, otherwise delivered).
- If applicable, how the work that was offered compares to work previously performed for the employer by the claimant.
- Reason given by the claimant for refusing the work that was offered.

Sometimes a claimant will have "good cause" for refusing work and will not be "disqualified" for the refusal, but will be held "ineligible" additionally because the reason shows that the worker is unable to work or unavailable for work.

What Action will UIA take?
The UIA will use the employer's information to ask questions of the claimant about the offer, and about why he or she refused the work. If the claimant cannot show good cause for refusing an offer of suitable work, the UIA will suspend benefit payments for 13 weeks, and reduce the claimant's balance of weeks of benefits by 13 weeks (or the number of weeks remaining on the claim, if fewer than 13). Also, if the claimant explained to the employer or to the UIA that he or she turned down work because he/she did not wish to jeopardize or reduce his/her unemployment benefits, the UIA will adjust the "week of" "lost earnings" and will consider earnings that were turned down as if they had actually been earned. The "lost earnings" will be used to reduce unemployment benefits for the week involved.

For further information about how employers can notify the UIA about a worker's refusal of an offer of suitable work, call UIA's Office of Employer Outreach (OEO), 1-877-484-2536 (1-877-4-U-NO-YES) or 517-486-2200, or email: EOO@Michigan.gov.

UIA is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

LARA
Michigan Department of Learning & Regulatory Affairs
Unemployment Insurance Agency
1300 State Street, Lansing, MI 48906
Call 1-877-484-2536. Fax to 517-486-2200.

Fact Sheet #144
February 2012

Here is a copy of that new Fact Sheet. It is available online from the UIA website.

BENEFITS ISSUES

Weekly Eligibility for Benefits

- Unemployed or underemployed
- Registered for work
- Able to work
- Available for full-time, suitable work
- Seeking Work
- Participating in Profiling if invited

In addition to the disqualifications we've been talking about up to this point, that can cut off the payment of benefits, and reduce future payments, there are week-by-week matters that are reported to MARVIN and that can prevent the payment of benefits for as many weeks as the "problem" continues. And the "problem" is that the worker is not maintaining weekly "eligibility" for benefits. To be eligible for benefits for any week, the claimant must certify to the MARVIN (either by phone or online) that he or she is unemployed or underemployed, is registered for work with the Michigan Works! Agency, is able to work, is available for full-time, suitable work, and is actively seeking work. Also, if a claimant has been "profiled" as needing special unemployment services to return to work, he or she will be "invited" to attend a session at the Michigan Works! Agency. If the worker fails to attend, his/her unemployment benefits are cut off for the week.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

An individual will be held unavailable for work if he or she has a claim and:

- Fails to update contact information with a chargeable employer, or
- Fails without good cause to respond to Agency within 14 days of mail or call requiring response, or

Under the recent amendments, a worker will be held unavailable for work if he or she fails to maintain up-to-date contact information with a base period employer, or fails without good cause within 14 days to respond to an Agency request for a response.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

An individual will be held unavailable for work if he or she has a claim and:

- Unless good cause is shown, mail from the Agency to the claimant is returned as undeliverable and the claimant also cannot be contacted at the phone number on file.

Or will be held unavailable for work if mail to the claimant is returned to the Agency as undeliverable and the claimant cannot be contacted by the telephone number on file.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

An individual will be held unavailable for work if he or she has a claim and:

- Fails to appear at a location designated by the Agency for an evaluation of his or her eligibility for benefits.

Another new provision of the law is that the claimant will be held unavailable for work if he/she fails to appear at a location used by the Agency for an in-person evaluation of the claimant's eligibility for benefits.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

A claimant must **actively** engage in seeking work

And, beginning in 2013, the claimant must conduct a **systematic and sustained** search

The claimant's search for work must be "active," and, beginning in 2014, an "active" search for work will require that the claimant conduct a "systematic and sustained" search for work.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

The claimant must report

- Name of employer where work was sought
- Physical or online location of employer

The claimant must also make a report of the details of that systematic and sustained search for work, which must include: the name of the employer where the claimant sought work during a week; the physical or online location of the employer;

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

The claimant must report

- Date on which work was sought with the employer
- Method by which work was sought with the employer

The date on which work was sought; and the method the claimant used to seek work with that employer.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

The report must be filed monthly:

- Online with the UIA, or
- By mail or fax with the UIA,
- In person at a Michigan Works!
Agency location.

A report of that systematic and sustained work search, which includes the items just mentioned, must be filed, at least monthly, online with the UIA, or by mail or fax with the UIA, or in person at a Michigan Works! Agency office.

BENEFITS ISSUES

Weekly Eligibility for Benefits

NEW LAW –

The report of the work search is subject to random audit.

The Report will be subject to random audit by the UIA.

BENEFITS ISSUES

Denial Periods

Unemployment benefits are denied to some seasonal workers during the period between seasons, if they have

“reasonable assurance” of returning the next season.

In addition to being held disqualified or ineligible, one other thing that can prevent a worker from drawing unemployment benefits is if the worker is subject to a “denial period.” A “denial period” is applicable to certain categories of seasonal workers who are off work during regularly-recurring periods of the year and who have reasonable assurance from the employer that they will be called back to work at the usual time.

BENEFITS ISSUES

Denial Periods

- Employees of school districts and community college districts, and of institutions of higher education, both between terms and within terms.

A “denial period” has applied for many years to employees of school districts, community college districts, intermediate school districts, and institutions of higher education, during the period between terms and in many cases to vacation periods within terms.

BENEFITS ISSUES

Denial Periods

- Professional athletes
- Seasonal employees of employers who have requested and been granted by UIA the designation of a “seasonal employer.”
- School crossing guards

A “denial period” has also applied to professional athletes, and to workers hired as seasonal workers by employers that have been designated by the UIA, at the employer’s request, as a “seasonal” employer

BENEFITS ISSUES

Denial Periods

- Employees of private contractors providing transportation services to schools

A “denial period” has also applied to private contractors providing employees to drive school buses for a school district or Intermediate School District.

BENEFITS ISSUES

Denial Periods

NEW LAW -

- Denial period applies between terms to employees of private contractors providing services to lower- or higher-education schools.

Under the new law, a denial period will also apply, between terms, to workers employed by a third party contractor that provides employees to school districts, community college districts, intermediate school districts, or institutions of higher education.

BENEFITS ISSUES

Denial Periods

NEW LAW -

An employer can be designated as “seasonal” without regard to industry, if workers are hired to perform services in recurring 26-week periods, within any 52-week period.

Under the new law, if an employer employs 1 or more workers to work regularly recurring periods of 26 weeks or less within any 52-week period, the employer may apply for, and receive, designation as a “seasonal” employer. Then, those seasonal workers given “reasonable assurance” of returning the following season will be denied unemployment benefits between seasons, chargeable to the seasonal employer.