



HR Examiner

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and managers encounter every day*

MN Unemployment Statute Changes

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So Now
What?

Since the Rules of the Unemployment Game have changed dramatically, I encourage anyone planning a termination and/or responding to an unemployment claim to study the new statute. There are many more changes in the regulations than are included in the main article that will now grant employees

All I Can Say is "Wow!"

Early in the year, I heard that we were in for lots of employment law changes in 2009. I didn't want to believe them – but they were correct.

If you weren't already frustrated by the apparent randomness of unemployment decisions, you will be now.

The State of MN has created a new twist for employers trying to contest unemployment benefits for employees. While some of the changes make sense, there are some that will be pretty difficult to manage - including the new single incident clause highlighted in the last paragraph.

Here are excerpts from an article written by Ingrid Culp of Fredrikson & Byron law firm. Since these are "highlights" of the new statute, I recommend that you check



unemployment when they were previously declined.

For example, one client terminated an employee for giving merchandise away for free to customers – basically not ringing up sales. The judge granted the employee unemployment stating that one single incident didn't warrant termination. My question is how many times an employee is allowed to steal from the employer (even in the form of giving merchandise to customers who don't pay) before unemployment considers this employment misconduct.

So here are some reminders:

▶ Document, document, document – make sure you have written proof that you've warned an employee or trained an

out the following link for all the details: [MN Statute 268.095 Unemployment.](#)

Minnesota's Unemployment Insurance Law ("UIL") was amended during the 2009 legislative session. While several changes were made, some of the most significant for employers include the expanded scope of who is eligible to collect benefits.

In addition to the eligibility and disqualification factors that have been in place for some time (which are many and too extensive for inclusion in this article), the amendments provide that an applicant is also eligible for benefits if he/she:

- quit to provide necessary care to an "immediate family member" with an illness, injury or disability. "Immediate family member" is defined as the applicant's spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

While somewhat unclear, it appears this provision only applies if the applicant informed the employer of the medical problem and requested accommodation and no reasonable accommodation was made available.

Application of this provision calls into question whether the applicant is available for suitable employment, a requirement for receipt of benefits, which the Department of Employment & Economic Development ("DEED") must determine;

- quit on account of the domestic abuse of the applicant or his/her immediate family member;
- was discharged as a result of conduct that was the result of the applicant or his/her immediate family member being a victim of domestic abuse;

or trained an employee regarding terminatable policies.

- ▶ Be prepared to respond to your unemployment claims on line. Check out the unemployment site just in case you miss a notification requiring you to respond on line.
- ▶ If you don't list all the possible behaviors and actions that are grounds for disciplinary action up to and including termination of employment in your employee handbook, now is the time to create that list. (Of course, I can help.)
- ▶ Frequently clients tell me that they've been advised not to list these policies because it can lock you in. My response is to lead the list with "the following is a partial list of examples of policy violations" and end the

- quit to relocate with his/her spouse whose job location has changed such that it would be impracticable for the applicant to commute to the applicant's current work location;
- was discharged as a result of conduct that was a consequence of the applicant's mental illness or impairment;
- was discharged as a result of being absent to provide necessary care to the applicant's immediate family member with an illness, injury or disability, if proper notice of absence was given to the employer;

Furthermore, prior to the amendments, an employee who was discharged as the result of "a single incident that [did] not have a significant adverse impact on the employer" was eligible for benefits. While this exception has been removed, the following language has been added: "If the conduct for which the applicant was discharged involved only a single incident, that is an important fact that must be considered in deciding whether the conduct rises to the level of employment misconduct."

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list with "violation of any other written or unwritten policy or practice."

▶ Train all your managers on the new laws to ensure that everyone is respectful of the potential costs to your organization if they fail to act, document, discipline and plan in alignment with these new regulations.

After you read the regulations, if you need to commiserate with someone regarding the shock factor of the list (although there are some positive changes to the law), give me a call!

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