

FAQ – Work Search Requirements and Suitability of Work 11/1/2012

RSA 282-A:31, I(d) has been changed to add that:

- (1) if permanent work which the claimant is qualified to do is not immediately available within their labor market, they must also be available for and seeking temporary, full-time or part-time work
- (2) an individual temporarily out of work that reasonably expects to be recalled by their employer in 4 to 26 weeks to permanent full-time or part-time work, must instead be available for and seeking temporary, full-time or part-time work for which they are qualified.

RSA 282-A:32, I(d) has been changed to provide separate suitable work expectations depending on the individual's circumstances.

- (1) If work is determined to be immediately available, the suitable work criteria remain substantially the same. Housekeeping changes were made to change "his" to "individual's" and separate the distance and rate of pay criteria.
- (2) If work is determined not to be immediately available, the suitable work criteria have been substantially duplicated from (1). An important and new criterion has been added. (E) "That the work, part-time or full-time, pays minimum wage or an hourly rate which when multiplied times 40 is equal to or greater than 150 percent of the individual's weekly benefit, whichever is greater."
- (3) If work is refused that is deemed suitable under this section, the denial shall be for the same period that the work would have lasted. AKA: 2-week temp job offered that is deemed suitable work results in a 2-week denial.

These changes will take effect with the week beginning 10/1/2012.

Please note that no changes were made to the exceptions cited in RSA 282-A:32, I(d)(3) other than to renumber the section from (2) to (3). This section includes reference to strike and lockout; union membership; shift work exemption to care for a child; and what is considered full or part-time work based on certification of a licensed physician and a permanent disability.

Question: I am seasonal worker and get laid off every winter. Do I have to look for work during the winter?

Answer: Yes. If you have reasonable assurance of returning to work in the spring, when work is again available, you must look for temporary work during the winter.

Question: I am a school bus driver. Do I have to look for work in the summer?

Answer: Yes. If you have reasonable assurance of returning to work in the fall, when school is again in session, you must look for temporary work during the summer.

Question: What is reasonable assurance?

Answer: It is more likely than not that you will be returning to work for the same employer. You have a history of working for the same employer and going back to work each season.

Question: What I am on the on-call list with the bus company and get periodic work for charters during the summer?

Answer: Unless you have a regular schedule and have guaranteed work, you must look for temporary work during the summer. You will not be penalized if you quit a temporary job to accept work with your regular permanent employer when called.

Question: What is the difference between permanent work and temporary work?

Answer: "Permanent work" is work with no definite end date that is expected to last more than 26 weeks from the start date, or work with a definite end date that is more than 26 weeks from the start date. "Temporary work" is work with a definite end date of less than 26 weeks from the start date, or with no definite end date but is expected to last no more than 26 weeks from the start date.

Question: What if I don't look for work?

Answer: You will be denied benefits until such time as you meet this eligibility requirement.

Question: What kind of temporary work do I have to look for?

Answer: In short, suitable temporary work is any work that you are capable of doing that pays more than 150% of your weekly benefit amount, when calculated to an hourly rate x 40. It does not have to be in your customary occupation.

Example:

You normally drive a paving truck and earn \$30.00 per hour.

Your weekly benefit rate for unemployment benefits is \$427.00.

150% of \$427 is \$640, or \$16.00 per hour.

\$16.00 per hour is considered suitable temporary work for you.

Question: What if I refuse an offer of temporary work?

Answer: You must report all offers of work. Your weekly continued claim specifically asks if you have refused an offer of work during the week you are claiming. Each job offer will be reviewed for suitability. In making a determination of suitability, the following factors are considered:

- the degree of risk to the individual's health, safety and morals*
- the individual's physical fitness allows them to do the essential functions of the work*
- the individual's prior training and/or experience allows the individual to do the work or acquire the skills to do the work*
- the distance of the work location from the individual's residence*
- the wages for the work, when calculated to an hourly rate, are more than 150% of the individual's weekly benefit amount*

If the job is determined to be suitable, you will be denied benefits for the same amount of time as the length of the temporary work, but no less than one week.

Question: What if the offer is only for a 2-day job?

Answer: If the hourly rate for the 2-day job is equivalent to more than 150% of your weekly benefit amount when multiplied by 40, and the work meets the suitability criteria, you are expected to accept the work.

If you refuse the job and it is suitable, you will be denied for one week of benefits.

Question: What if the offer is not definite in the length? What if it is offered as lasting between 2 to 4 weeks?

Answer: If the hourly rate for the job is equivalent to more than 150% of your weekly benefit amount when multiplied by 40, and the work meets the suitability criteria, you are expected to accept the work.

If you refuse the job and it is suitable, you will be denied for four weeks of benefits, which is the maximum the job would have lasted.

Question: What if the offer is temp to perm?

Answer: If the hourly rate for the job is equivalent to more than 150% of your weekly benefit amount when multiplied by 40, and the work meets the suitability criteria, you are expected to accept the work. You will not be penalized if you quit a temporary job to accept work with your regular full-time permanent employer when called.

If you refuse the job and it is suitable, you will be denied indefinitely, as there was no definite end date to the assignment. To remove this disqualification and again become eligible, you must work and earn at least 120% of your weekly benefit amount in 5 separate weeks.

Question: How do I again become eligible after a job refusal disqualification?

Answer:

A: If the denial is for a specific period of time, such as 3 weeks for refusal of a 3 week assignment, the denial only impacts those 3 weeks identified in the denial determination. You remain eligible for benefits for other weeks.

B. If the denial is for more than 5 weeks, such as 9 weeks for refusal of a 9-week assignment, you may become eligible sooner than 9 weeks if you work and earn at least 120% of your weekly benefit amount in 5 of those 9 weeks. If you requalify before the 9 week disqualification is over, you would be eligible for the remainder of the 9 weeks.

C. If the denial is indefinite, you must work and earn at least 120% of your weekly benefit amount in 5 separate weeks to reestablish eligibility.

NOTE: The separation from the employer that provided 5 weeks of wages would have to be non-disqualifying.

Question: What if my employer tells me when he lays me off that he isn't going to call me back next season? Or calls me during the layoff and tells me that he's not going to bring me back?

Answer: You will be required to seek both permanent and temporary work, as your normal occupation is not immediately available during the off-season and you have no reasonable assurance of returning to work with your former employer.

Question: What if I have decided I won't go back to work for the employer, even when they call?

Answer: You will be required to seek both permanent and temporary work, as your normal occupation is not immediately available and you have no reasonable assurance of returning to work with your former employer.

If your employer calls you back to work, and you say No, the employer is expected to report the job refusal to the department. The refusal would be reviewed for suitability and may result in a denial of benefits.

Question: What does "not immediately available" mean?

Answer: "Not immediately available" means that based on the current labor market, you are not likely to obtain work in your normal occupation in 27 or fewer calendar days.

Question: Why do I have to look for work when I'm going back to the same employer?

Answer: These law changes are a win-win for all involved.

You are only expected to accept temporary work that pays more than 150% of your weekly benefit amount. Bringing more money into your household than you would receive on unemployment is good for your family and the economy by giving you more to spend. Also, unless you are already at the top of the weekly benefit scale (\$427 per week), the additional wages earned in this temporary employment may increase your weekly benefit amount next year.

Your regular employer benefits because with less unemployment benefits being paid, their tax rate may go down. They may also benefit from a Trust Fund Balance Reduction, which is applied to all employers' tax rates based on the balance in the Trust Fund account that pays for unemployment benefits. Paying less in taxes could improve the company's solvency and reduce the need for permanent layoffs.

Your temporary employer benefits because they now have a larger pool of skilled workers to choose from when filling positions.