Conformity Requirements for State UC Laws

Pregnant Claimants

Background

Section 3304(a)(12) of the Federal Unemployment Tax Act (FUTA) was added in 1976 to protect the rights of pregnant claimants to benefits. The provision was enacted in response to the decision by the U. S. Supreme Court in Turner v. Department of Employment, 423 U.S. 44 (1975). In that case the court ruled that the presumption in Utah law that pregnant women were unable to work and therefore not entitled to UC was unconstitutional. Prior to the Court decision and enactment of § 3304(a)(12) many states routinely denied benefits to pregnant women either under a specific state law provision or under more general able and available requirements.

Federal Law

Section 3304(a)(12), FUTA, states that –

The Secretary of Labor shall approve any state law submitted to him, . . . which he finds provides that –

> no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy.

Frequently Asked Questions

1. May state law permit an individual to restrict his or her availability for work due to disability or illness, but except from application of that law pregnancy (and thus deny the individual as not being able and available?)

No. Section 3304(a)(12), FUTA, prohibits the denial of UC solely on the basis of pregnancy. This denial would be based on pregnancy. Under the requirements of Section 3304(a)(12), FUTA, pregnancy must be treated as any other condition that affects the able and available requirement.

2. Are states required to have a specific provision in the law stating that no person may be denied compensation solely on the basis of pregnancy or termination of pregnancy?

No. States need not enact such a provision so long as they interpret their laws consistent with the requirements of Section 3304(a)(12), FUTA.

3. May states provide that a claimant who leaves work due to pregnancy is not eligible because state law requires that the quit be attributable to the work or to the employer in order for there to be good cause for a voluntary quit?

Yes, as long as the quit/discharge is not attributable to the work or employer. States are not required to give preferential treatment to women because of their pregnancy, but are only prohibited from singling out pregnancy for unfavorable treatment. However, if the quit/discharge is required as a result to the pregnancy due to an employer rule or health or safety regulation, the state must adjudicate it as they would any other quit/discharge required under those rules or regulations.

References

UIPL 14-87. U. S. Supreme Court's decision of January 21, 1987, Wimberly v. Labor and Industrial Commission of Missouri, 479 U.S. 511 (1987).

Green Book. Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976.

UIPL 1-76. U.S. Supreme Court Decision of November 17, 1975, *Mary Ann Turner v. Department of Employment Security and Board of Review of the Industrial Commission of Utah*, 423 U.S. 44 (1975).