



Denial Periods for Seasonal Workers (Other than Construction Workers)

What the law says: This issue is discussed in Section 27(o) of the *Michigan Employment Security Act*.

Generally, Section 27(o) provides for a denial of unemployment benefits, under certain circumstances, to seasonal workers who have reasonable assurance from their seasonal employer at the end of a seasonal work period that they will be rehired when the new season begins.

Responsibilities of the Employer

- Apply to the Unemployment Insurance Agency (UIA), not less than 20 days before the estimated beginning of a season, to be designated as a seasonal employer
- Receive designation from the UIA as a seasonal employer
- Post notice to workers, at the time of application, that application for seasonal designation has been made
- Post notice to workers, once seasonal designation has been granted, of:
 - the designation, and
 - the beginning and ending dates of the normal seasonal work period, and
 - the fact that retroactive benefits may be payable to a worker for the period between seasons if the work assured for the next season does not materialize and if the worker timely applies for the benefits
- Notify a worker in writing, at the time of hire, of the employee's status as a seasonal worker, and notify the worker in writing of any subsequent changes in that status
- Give reasonable assurance to the worker at the end of the season that work will be available in the next season.

Designation as a Seasonal Employer

To be designated by the UIA as a *seasonal employer*, the employer must offer work in *seasonal employment*.

To be *seasonal employment*, the employer must employ individuals primarily hired to work during regularly recurring periods of 26 weeks or less within any 52-week period. However, an employer in the construction industry may not receive designation as a seasonal employer.

Application of Denial Period

A *seasonal worker* is one who is paid wages by a seasonal employer for work performed only during the *normal seasonal work period*. The Agency will determine each employer's normal seasonal work period. The benefits are denied during the period between normal seasonal work periods if the worker has reasonable assurance of re-employment.

If a worker either begins working before the start of an employer's normal seasonal work period, or finishes working after the end of that employer's normal seasonal work period, the worker no longer satisfies the definition of *seasonal worker* and would not be subject to the seasonal denial period for that year.

Example: The UIA has determined that the employer's normal seasonal work period lasts from May 12 until August 28. The unemployed worker works from May 5 until August 20 in a particular year and is given reasonable assurance of returning to the job the next season.

However, a *seasonal worker* is one who is paid wages by a seasonal employer for work performed only during the normal seasonal work period. Since the unemployed worker in this example started working before the start of the employer's normal seasonal work period, the worker no longer satisfies the definition of *seasonal worker* and would not be subject to the seasonal denial period for that year.

Proof at the Hearing: If the UIA determines that the employer is not a seasonal employer, the employer can appeal a redetermination of that finding to an Administrative Law Judge. If the UIA decides that the employer is a seasonal employer, the unemployed worker can appeal that designation at any time to an Administrative Law Judge.

If the unemployed worker was denied benefits but should not have been because the unemployed worker began work before the start of the employer's normal seasonal work period or finished work after the end of the employer's normal seasonal work period, the unemployed worker can appeal the denial. The unemployed worker can also appeal the denial of benefits if the unemployed worker did not receive reasonable assurance of returning at the start of the following season, or if the unemployed worker believes the reasonable assurance that was given was not *bona fide*. The employer can refute the claimant's allegations, at the hearing.

For Further Help: The UIA Advocacy Program can provide assistance to employers and/or unemployed workers in preparing for an Administrative Law Judge hearing. Call 1-800-638-3994, Item 2.