

Department of Labor Will Provide Additional Benefits for Those Who Refuse ‘Unsafe’ Work

By Paul L. Jackson

On February 25, 2021, the Department of Labor (DOL) issued guidance in the form of a Program Letter based upon President Biden’s recent directive to ensure unemployment benefits are available to people who refuse to work because of COVID-19 safety concerns. The DOL also commented that it expects that state unemployment agencies may take until late March to implement this policy change.

Essentially, the guidance provides that laid off workers who refuse to return to a job they consider unsafe during the ongoing pandemic if that work site is “not in compliance with local, state or national health and safety standards directly related to COVID-19” will have an easier time obtaining federal unemployment benefits. Those standards, according to the DOL’s Letter, include, but are not limited to, standards “related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines.”

This guidance marks a change from the position previously taken by a number of state unemployment agencies. Benefits had typically been denied if a person had refused work based upon a fear of potentially contracting COVID-19. Now, provided that an employer is not complying with all of the guidelines noted above, an employee should have an easier time obtaining unemployment benefits. It remains to be seen how this will be implemented within and among the various states.

We will continue to monitor this situation and keep you apprised of further developments on this issue as they occur. As always, should you have any questions regarding this change in unemployment benefit eligibility, please do not hesitate to contact any of the persons listed below.

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