

# **Unemployment Insurance and Labor Disputes**

by

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# Federal Law addressing Labor Dispute Disqualifications

- By US DOL interpretation individuals should be involuntarily unemployed and available for work as a condition of eligibility to be paid.
- Section 303(a) (12) of the Social Security Act requires as a condition of the UI grant to states that claimants must be able to work, available to work and actively seeking work as a condition of being paid unemployment compensation for a week.

# State Laws addressing Labor Dispute Disqualifications

- State laws generally disallow applications to establish benefit rights if the reason for unemployment is due to a labor dispute.
- New York and New Jersey enacted legislation that assumed that the labor disqualification would not be applied after a period of time on the assumption that the individuals were no longer unemployed due to the labor dispute.
- However, weekly eligibility requirements continue to apply.
- News accounts tend not to distinguish between establishing benefit rights and being paid for weeks during the benefit year.

# State Laws addressing Labor Dispute Disqualifications

- Key questions for interpretation and administration include:
  - When did the labor dispute become the reason for unemployment?
  - Does the disqualification apply only to individuals in the union, the bargaining unit, those on a picket line? Individuals who do not cross the picket line? Employees laid off due to the labor dispute at the same or other locations?
  - What if striking workers are permanently or just temporarily replaced?
  - What if the employer locks out employees physically or by refusing to negotiate in good faith?
  - What if striking workers destroy employer property?
  - What if there are other reasons for disqualification other than the labor dispute?
  - When did the labor dispute end (time after agreement reached but recall of workers not yet back to normal) ?

# State Laws addressing Labor Dispute Disqualifications

- How were the recent labor disputes handled in the entertainment and auto industries?
- What is the impact on UI trust fund solvency?
- What is the impact on employers?
- What is the impact on employees during the labor dispute?
- What is the impact on the economy during the labor dispute?
- What insights can be learned from the experience with legislative debate in California and Washington?