

2010 Best Practices Tip

Absenteeism and Tardiness Are Not Always Misconduct

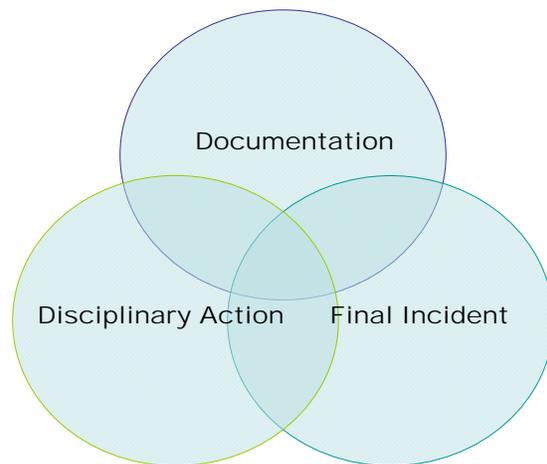
When an employer discharges an employee for excessive absenteeism and/or tardiness the employee is not automatically disqualified from receiving unemployment benefits. The employer must prove the employee's absences and/or tardiness were misconduct and this can be very difficult to do. To establish misconduct when an employee is discharged for absenteeism or tardiness, there are certain basic guidelines that should be followed. As a reimbursing organization, your ability to prove misconduct when it occurs directly impacts your bottom line.

Reporting

Disregard of procedures or failure to call in may constitute misconduct regardless of the reason for absence or lateness. (For example, while an employee may allege illness, this will not usually excuse a no call, no show.) However the employee's failure to follow an employer's policies will do no good in a protest unless the conduct and the efforts to reach the employee are documented.

Point System

Many employers use a "point" system to manage employee absences. These systems provide a substantially simplified way to handle employee absences, but employers should remember the requirement about the final incident. The final incident must be within the employee's control, so former employees frequently collect benefits even if their absences justify dismissal under a point system.



Documentation

Maintain absence or tardiness records; note reasons given and related infractions, e.g., failure to produce required medical documentation.

Disciplinary Action

Progressive disciplinary action should be initiated in accord with work rules and policies. Warnings should be issued and reviewed with an employee where appropriate. A delay in initiating progressive discipline might result in the state unemployment agency ruling that the employee's conduct was being tolerated and, in effect, approved by the employer.

Final Incident

The last incident of absenteeism or tardiness prior to discharge should involve conduct or behavior within the employee's control. (If an employee, for example, is ill, calls in as instructed, and furnishes required medical documentation, there is no misconduct despite warnings.)