

1100 SUITABLE WORK**1101 STATUTE**

- §25(c)

1105 PRINCIPLES**1110 DEFINITIONS**

- (A) Otherwise Eligible Individual
- (B) Suitable Employment

1115 FACT FINDING

- (A) Definite Referral/Offer Made?
- (B) Definite Refusal?
- (C) Implied Refusal?
- (D) Refusal of Suitable Work or Refusal of Recall?
- (E) Suitable or Unsuitable?

1120 CIRCUMSTANCES AND POLICIES**1121 UNION CONSIDERATIONS**

- (A) Unrelated Labor Dispute
- (B) Knowledge of Union Membership Requirement

1122 RECALLS

- (A) Recall Refused
- (B) Quit or Discharge Prior to Recall

1123 CONSCIENTIOUS OBJECTION

- (A) Refusal to Work on Specific Day of Week
- (B) Refusal to Serve Alcoholic Beverages
- (C) Refusal to Use Chemicals
- (D) Refusal to Do Defense-Related Work

1124 TRANSPORTATION AND TRAVEL

- (A) No Public Transportation Available
- (B) Change in Physical Condition
- (C) Increase in Commuting Time

1126 TRAINING AND EXPERIENCE

- (A) Obsolete Occupation
- (B) Transfer of Skills to New Work

1127 SAFETY HEALTH AND PHYSICAL ENVIRONMENT

- (A) Hazardous Job Duties
- (B) Physical Ability to Perform Work
- (C) Unhealthy Working Environment
- (D) Cold Weather Job - Experienced Worker

1128 WAGES AND FRINGE BENEFITS**1129 LENGTH OF UNEMPLOYMENT****1130 FULL-TIME OFFER TO PART-TIME WORKER****1131 OFFER OF NEW ASSIGNMENT TO TEMPORARY AGENCY EMPLOYEE****1132 PRE-EMPLOYMENT DRUG TESTING**

- (A) Positive Pre-Employment Drug Test
- (B) Refusal to Submit to Pre-Employment Drug Test

1140 DOMESTIC VIOLENCE**1150 FORMS AND PROCEDURES**

- (A) Disqualification and Benefit Credit Reduction
- (B) Use of Form 3720E, Notice to Claimant of Disqualification for Failure to Apply for, or to Accept Suitable Work

1100 SUITABLE WORK**1101 STATUTE****§25(c)**

"No waiting period shall be allowed and no benefits shall be paid to an individual pursuant to this chapter for...

(c) Any week in which an otherwise eligible individual fails, without good cause, to apply for suitable employment whenever notified to do so by the employment office, or to accept suitable employment whenever offered to him, and for the next seen consecutive weeks in addition to the waiting period provided in §23, and the duration of benefits for unemployment thereupon be reduced for as many weeks, not exceeding eight, as the Commissioner shall determine from the circumstances of each case.

"Suitable employment" as used in this subsection, shall be determined by the Commissioner, who shall take into consideration whether the job is:

- Detrimental to the health, safety, or morals of an employee;
- One for which he is reasonably fitted by training and experience, including employment not subject to this chapter.
- One which is located within reasonable distance of his residence or place of last employment;
- One which reasonably accommodates the individual's need to address the physical, psychological, and legal effects of domestic violence, and
- One which does not involve travel expenses substantially greater than that required in his former work.

No work shall be deemed suitable, and benefits shall not be denied pursuant to this chapter, to any otherwise eligible individual for refusing to accept new work pursuant to any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If acceptance of such work would require the individual to join a company union or would abridge or limit his right to join or retain membership in any bona fide labor organization or association of workers.

An individual who is certified as attending an industrial retraining course or other vocational training course as provided pursuant to §30 shall not be denied benefits by reason of the application of the first paragraph of this subsection relating to failure to apply for, or refusal to accept, suitable work."

An individual shall not be denied benefits if the individual establishes to the satisfaction of the commissioner that the reason for the individual's failure to apply for or accept suitable work was due to circumstances resulting from domestic violence, including the individual's need to address the physical, psychological and legal effects of domestic violence.

1105 PRINCIPLES

Disqualification pursuant to §25(c) occurs when an otherwise eligible claimant refuses without good cause to accept an offer of "suitable work" or declines to apply for a job to which he or she has been referred. The Law considers this action an unreasonable restriction of the claimant's job search, and the burden falls upon the claimant to demonstrate that the job in question is, for one good reason or another, not suitable for him or her.

Make suitable work determinations on an individual-case basis, sensitive to labor market conditions in your local area. The suitability of a particular job for a particular person is, of course, sometimes open to disagreement. Section 25(c) deals with this issue by listing and limiting some of the factors that may make an otherwise suitable job unsuitable for a specific claimant. In other words, an offered job is not suitable if it meets one of these tests:

1. It could endanger the health, safety, or morals of the claimant;
2. The claimant is not reasonably fitted for the job by training and experience;
3. The job is located beyond a reasonable distance from the claimant's residence or previous workplace;
4. The job involves substantially higher travel expenses than those in his or her former work;
5. The work's pay, hours, or other conditions are substantially less favorable than the prevailing conditions for similar work in the locality;
6. The position offered is vacant due directly to a strike, lockout, or other labor dispute;
7. Accepting the job would require the claimant to join a company union, or limit his or her right to join or retain membership in any bona fide labor organization or workers' association.

In addition, when a claimant is enrolled in and attending a training course approved pursuant to §30 of the Law, he or she is not required to apply for or accept what would otherwise be suitable work.

1110 DEFINITIONS

(A) Otherwise Eligible Individual

If a claimant did not apply for benefits during a week in which a referral or offer was made, or if he or she was disqualified for that week pursuant to another section of the Law, the claimant is not an otherwise eligible individual and cannot be disqualified pursuant to §25(c). A claimant must be eligible when the job offer or referral is made.

If you verify with the claimant's last employer that the claimant has a definite recall date or an approximate date of return to work, he or she remains eligible and need not apply for or accept other work.

(B) Suitable Employment

This refers to work which reasonably fits the claimant's training and work background; does not involve harm or injury to health, safety or morals; excessive or burdensome travel time or expenses; has terms of employment comparable to other similar work in the community; is not open strictly because of a labor dispute; and does not require the claimant to join or quit a union. Part-time work, odd jobs, and temporary work of brief duration are not considered suitable work. Employment will not be considered suitable in cases involving domestic violence unless it reasonably accommodates the individual's need to address the physical, psychological and legal effects of domestic violence.

1115 FACT FINDING

(A) Definite Referral/Offer Made?

Before you investigate the suitability of the work, you must be certain that a definite referral or job offer was, in fact, made. The referral or offer must be for a specific job opening with a specific employer. If the answer to any of these questions is "no," then the claimant is not subject to disqualification pursuant to §25(c).

- Did the offer or referral include all the important facts about the job (e.g., job duties, hours, wages, location, etc.)?
- Was the referral or offer made directly to the claimant?
- Was the claimant made aware that he or she was being given a definite referral or job offer and not just engaging in a discussion of job possibilities?

(B) Definite Refusal?

Once you determine that a definite offer or referral was made, you need to establish that the claimant definitely refused it, and without good cause.

(Even though good cause -- such as a serious illness -- does not subject the claimant to disqualification pursuant to this section, it might pursuant to §24(b) [See 1000: Able and Available].)

- Did the claimant definitely refuse a job offer or referral?
- What was the reason for refusing the referral or job offer?
- Does the employer confirm that the claimant refused the job offer? If so, how?
- Does the Career Center confirm that the claimant refused the referral? If so, how?

(C) Implied Refusal?

A claimant's statement may indicate that he or she is not making a bona fide application for work. That is, he or she accepts a referral and applies for a job, but deliberately provides false or misleading information on the application or during a job interview or deliberately engages in unreasonable behavior in order to preclude an offer of work from a prospective employer. Disqualify this type of claimant pursuant to §25(c).

(D) Refusal of Suitable Work or Refusal of Recall?

When a former employer notifies the local DUA office that a claimant has refused work, establish whether it is a refusal or suitable work or a failure to respond to a recall.

- Was the claimant laid off or discharged? Did the claimant quit?
- If the company is unionized, after the layoff, was the claimant recalled in accordance with the contract? Did the claimant fail to respond?
- If the company is not unionized, exactly what happened at the time of layoff? Was the claimant given a definite or approximate date of recall? Was this a seasonal or customary layoff? Has the claimant been laid off in the past subsequently returning to work?

(E) Suitable or Unsuitable?

Make these determinations on an individual-case basis. Ask whichever questions seem relevant to the particular situation, being careful not to raise extraneous issues:

- In what area is the claimant's training and experience? Does the claimant have a reasonable prospect of finding new work in his or her customary occupation? At his or her accustomed pay level? How long is this likely to take?
- Did the offered job represent a hazard to the claimant's health or safety? To the claimant's moral or religious convictions?
- How far was the offered job from the claimant's home? From the claimant's most recent workplace? How long did the claimant commute to his or her previous work? How much would the new commute cost the claimant? What public or private transportation is available?
- What were the working hours and wages in the offered job? Were they comparable to other similar jobs?
- What do you know about union membership requirements in the offered job?

1120 CIRCUMSTANCES AND POLICIES**1121 UNION CONSIDERATIONS****(A) Unrelated Labor Dispute**

A claimant refuses a job offer of suitable work because the employer is involved in a labor dispute. However, the position was not vacant because of the dispute (over other jobs in the company) and the claimant was made aware of this fact. This claimant is subject to disqualification pursuant to §25(c).

Form 3720E Explanation:

You refused an offer of suitable work because (name of employer) was involved in a labor dispute. However, you were aware that the position was not vacant because of the dispute; therefore, you are subject to disqualification pursuant to the above-cited section of the Law.

(B) Knowledge of Union Membership Requirement

A claimant accepts an offer, knowing that he or she must join a union to keep the job. The claimant later decides not to join the union and quits or is terminated. Adjudicate such cases pursuant to §25(e). Although §25(c) considers the requirement for union membership sufficient reason for initially refusing an offer, once a claimant accepts a job knowing that he or she must join a union, a subsequent claim of unsuitability may not be based on the union membership requirement.

1122 RECALLS

(A) Recall Refused

A former employer notifies the local DUA office in writing or by phone that a claimant has refused a recall. The original employee/employer relationship had not been broken because recall was discussed at the time of layoff. The employer must establish that the recall was actually made, and that the refusal was without good cause.

1. If the company is unionized, and the claimant was recalled in accordance with the union contract, then he or she has quit. Investigate the issue pursuant to §25(e)(1). [See 1200: Voluntary Leaving].
2. If the company is not unionized and the claimant was given a definite or approximate date of recall or the layoff was seasonal or customary, and the claimant had been laid off in the past and returned to work, investigate the matter pursuant to §25(e)(1). If no recall was discussed at the time of separation, and the layoff was not seasonal or customary, consider this situation a possible refusal of suitable work pursuant to §25(c), because the original employer-employee relationship was dissolved at the time of layoff.

(B) Quit or Discharge Prior to Recall

A claimant quits or is discharged, but is not laid off. The employer/employee relationship was severed at the time of separation. The claimant then receives, from the same employer, an offer of new work, which he or she refuses. A job from which a claimant quit for good cause or was fired will always be regarded as unsuitable. If the claimant left employment for urgent, compelling and necessitous reasons, the suitability of any subsequent offer of work from the former employer must be evaluated in light of those same circumstances if they still apply. If the quit was not for good cause, treat this as a possible refusal of suitable work pursuant to §25(c). Determine if the offer is bona fide and suitable.

1123 CONSCIENTIOUS OBJECTION

In general, a claimant who refuses an offer or work because of religious, moral, or ecological beliefs is not subject to disqualification pursuant to §25(c) because the work is considered unsuitable. For example:

(A) Refusal to Work on Specific Day of Week

A claimant who is, for example, a Seventh Day Adventist refuses a job which involves Saturday work, a violation of his or her religious convictions. Refusal of work on a specific day of the week -- not necessarily just Sunday -- due to religious beliefs is with good cause and allowable pursuant to §25(c).

(B) Refusal to Serve Alcoholic Beverages

A claimant refuses a job which would involve serving alcoholic beverages to customers, a violation of his or her moral or religious principles. This is a refusal with good cause.

(C) Refusal to Use Chemicals

A claimant with moral and ecological objections to the spraying of chemicals on lawns declines an offer of work which would require such activities. This is a refusal with good cause and allowable pursuant to §25(c).

(D) Refusal to Do Defense-Related Work

A claimant objects, for moral and/or religious reasons, to military activities and refuses to accept a job offer from a firm producing weapons pursuant to a Department of Defense contract. Such a refusal is with good cause.

1124 TRANSPORTATION AND TRAVEL

In general, no arbitrary, fixed figure can serve as a "reasonable" distance to travel to and from work; your determination must consider the time, cost, and mode of transportation available for travel to the offered job, and compare these with the claimant's previous commuting arrangements. Only then can you judge what is reasonable in a particular case.

(A) No Public Transportation Available

A claimant refuses a job offer when he or she learns that no public transportation is available to the job location. In the claimant's previous job, he or she depended on public transit to reach work and has no alternative means (e.g., car, ride with a co-worker, etc.) to commute to the offered job. Under these circumstances, the claimant is not subject to disqualification pursuant to §25(c) for refusing the job. Even if he or she could purchase a car, the additional cost would be considered unreasonable, and the work would remain unsuitable.

(B) Change in Physical Condition

In his or her previous employment, a claimant commuted to work; by driving a private car. Now, however, his or her physical condition has changed, and the claimant must depend on public transportation. The claimant refuses a job which requires an automobile for commuting because it is located beyond the area accessible via public transportation. Such refusal, due to a change in physical capability, is not subject to disqualification.

(C) Increase in Commuting Time

A claimant refuses a job because of an increase in commuting time. A refusal of a job due to increased commuting time will not result in disqualification if the refusal was reasonable. Consideration should be given to the extent of the increase, commuting patterns in the area, and the type of work involved.

Form 3720E Explanation:

You refused a job offer with (name of employer) because of increased commuting time. However, because the increase is a reasonable one, the offered work is considered suitable employment; therefore, you are subject to disqualification pursuant to the above-cited section of the Law.

1126 TRAINING AND EXPERIENCE

In general, to determine whether refused work was suitable or not, consider the claimant's:

- skill and capacity;
- accustomed level of pay;
- expectation of finding equivalent employment; and
- time required to find such work.

For example, a job that requires a highly skilled worker to do lower-grade work for substantially less pay is considered unsuitable pursuant to §25(c) and the claimant is not subject to disqualification.

(A) Obsolete Occupation

A claimant whose occupation has become obsolete (i.e., jobs are disappearing or no longer available) chooses to take vocational training in another field. The claimant is not subject to disqualification pursuant to §25(c).

(B) Transfer of Skills to New Work

A claimant decides to transfer his or her skills to a new type of work. The choice of work to which the skills will be transferred is strictly up to the claimant, but in order to remain eligible for benefits, he or she must be willing to accept work in the occupation to which the skills are being transferred.

1127 SAFETY, HEALTH AND PHYSICAL ENVIRONMENT

In general, a difference in the danger level of a job, or in the health of a claimant, may render a job unsuitable. Although some types of work are inherently hazardous (e.g., demolition work, some laboratory work) they are not necessarily unsuitable when the claimant has experience in the occupation, and the claimant's level of risk would not differ significantly from others. Determine if the hazard is unusual for the occupation; the increased risk may make the offered work unsuitable.

The legitimate refusal of a job for health reasons is closely tied to the claimant's capacity to perform a particular job. In determining whether a job offer is suitable, consider such factors as lack of strength, physical injury, and temporary health conditions such as illness.

(A) Hazardous Job Duties

A claimant refuses a job offer because it involves a dangerous activity, such as handling toxic chemicals.

1. Based on experience in his or her previous work in the industry, the claimant is familiar with safety precautions and has experience in handling toxic chemicals. Refusing work under these circumstances is considered to be without good cause unless changing health or domestic circumstances have made the job unsuitable. For example such work may be unsuitable for a claimant who is pregnant or whose health circumstances have changed.

Form 3720E Explanation:

You refused a job offer because it involved a potentially hazardous activity. However, the job offered is similar to work you have performed in the past; therefore, you refused suitable work and are subject to disqualification pursuant to the above-cited section of the Law.

2. Although the claimant worked in the industry, he or she has no experience with dangerous chemicals. A job offer handling toxic waste is made to the claimant. It is refused. The job is unsuitable within the meaning of §25(c).

(B) Physical Ability to Perform Work

Because of a chronic bad back, a claimant refuses an offered job which involves lifting. This refusal is allowable. Even though the reason cited may not affect other workers doing the same job, offered work which is detrimental to a claimant's health is considered unsuitable pursuant to §25(c). You need substantiation of a valid medical reason. Obtain supporting documentation that establishes the physical limitations imposed by the claimant's condition. As long as a claimant is capable of performing some type of full-time, paid work within his or her physical limitations, the claimant also meets the requirements of §24(b). Additionally, a qualified individual with a disability who has not withdrawn from the labor market and who is able to work with or without a reasonable accommodation shall not be disqualified. A claimant may be eligible even if only able to work part-time due to disability in accordance with 430 CMR 4.42 – 4.45.

(C) Unhealthy Working Environment

A claimant refuses work which would be done in a cold and damp basement. If it is established that a reasonable risk to the claimant's health exists; he or she is not subject to disqualification pursuant to §25(c). Working conditions at the location may violate standards required under state law or the claimant's physical condition may render conditions which might ordinarily be considered suitable, unsuitable for the claimant.

(D) Cold Weather Job - Experienced Worker

Because of an outside work requirement during cold weather, a claimant refuses to return to work after a seasonal layoff. The claimant worked for years under similar circumstances. It is established that there has been no change in the claimant's health or physical condition and his or her health has not been adversely affected by the work in the past. This refusal is considered without good cause, and the claimant is subject to disqualification.

Form 3720E Explanation:

You refused suitable work because of cold weather, although such work is customary in your occupation, there has been no change in your health and you have performed such work in the past with no adverse affect. You are, therefore, subject to disqualification pursuant to the above-cited section of the Law.

1128 WAGES AND FRINGE BENEFITS

In general, be sure to consider the value of fringe benefits in determining the total monetary value of a particular job offer. Fringe benefits may include, but are not limited to, health insurance, dental plans, profit sharing, vacation time, and child care.

It is important to recognize that certain benefits may be of different value to different claimants. For example, child care as a fringe benefit does not add value for a claimant who does not have children. Only when an approximate value for these benefits is added to the wage can you compare the total wage level of an offered job with a claimant's previous work.

1129 LENGTH OF UNEMPLOYMENT

In general, a claimant is entitled to a reasonable amount of time to find new work with wages and fringe benefits equivalent to his or her most recent employment. An exception exists when such work is no longer available in the area in which the claimant is available for and actively seeking work.

What constitutes a "reasonable" amount of time? DUA defines long-term unemployment as unemployment lasting 15 weeks or longer, it is reasonable to expect that a claimant who has been unemployed for longer than 15 weeks will accept a job offer at a reduced salary or wage level. Use your judgment in individual cases: a longer period might be reasonable for claimants in certain specialized occupations. You should establish, though, that reasonable prospects for finding work at the previous wage level still exist.

1130 FULL-TIME OFFER TO PART-TIME WORKER

A part-time worker, employed on a subsidiary basis (i.e., concurrently working a second job), is laid-off from his or her principal job and is offered full-time employment by the subsidiary employer. He or she refuses, saying that the part-time work does not use the same level of skill required by his or her previous full-time employment. Under these circumstances, the work is not considered suitable because it does not allow the claimant to use his or her highest skill on a full-time basis. Approve this claim pursuant to §29(a) and §1(r).

Form 3720E Explanation:

The offer of full-time work as a (type of work) is considered not suitable on a full-time basis because it does not permit the continued use of the claimant's highest skill as a (type of work). Therefore, the claimant is in partial unemployment within the meaning of the above-cited section of the Law.

[Note: Include a copy of 430 CMR 5.05:(1).]

1131 OFFER OF NEW ASSIGNMENT TO TEMPORARY AGENCY EMPLOYEE

A claimant who obtains work from a temporary agency is sent on assignments of varying lengths. If a claimant fails to accept a new assignment, the claim adjudicator must determine whether or not the claimant received a direct offer of work and whether the assignment constituted suitable work within the meaning of §25(c) of the Law.

To determine whether the assignment constitutes suitable work, the claims adjudicator must make an individual determination. This determination should be made in compliance with §25(c), which states that benefits shall not be denied "if the remuneration hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality." This statutory requirement is known as the "prevailing conditions of work test," and it is used for determining whether a job is suitable.

The prevailing conditions of work test requires four findings before a claimant is disqualified from the receipt of unemployment insurance due to a refusal of suitable work. They are:

1. That there was a bona fide offer of work;
2. That the work is suitable to the individual in terms of the individual's previous wages and skill levels;
3. That the wages, hours and other conditions of the work were not substantially less favorable to the individual than those prevailing in the locality; and,
4. That there was not good cause for refusing the offer.

Bear in mind that the prevailing conditions of work test should be applied with respect to "similar work in the locality." To determine what is "similar work," new temporary work must be compared not just with similar temporary work, but with "all work, temporary and permanent, in a similar occupational category.

Also bear in mind that the prevailing conditions requirement applies to refusals of "new work" as well as to refusals of existing work. It does not matter why the individual refused new work not meeting the prevailing conditions requirement; if the work does not meet the prevailing conditions requirement, compensation may not be denied.

"New work" includes an offer of work to an individual by an employer with whom the worker has never had a contract of employment, but also an offer of reemployment to an individual by a previous employer with whom the individual does not have a contract of employment at the time the offer is made. New work also includes an offer by an individual's present employer of: (a) different duties from those the individual has agreed to perform in the existing contract of employment; or (b) different terms or conditions of employment from those in the existing contract.

1. If the claimant declines a new assignment of four weeks or less duration, he or she may be subject to disqualification pursuant to §29(a) and 1(r) of the Law provided that the new work was suitable. The disqualification is for the duration of the period work was available (i.e., 2 days, 1 week, etc.).

Form 3720 Explanation:

Because you declined an offer of suitable work of (duration of the assignment), you are not in unemployment within the meaning of the above-cited section of the Law for the period, noted above, for which work was available to you.

2. If the claimant declines an assignment of more than four weeks, he/she may be subject to disqualification pursuant to §25(c) of the Law, provided that the work is suitable. In addition, she/he must have received a direct offer of work with notice as to the type and duration of work, etc.

Reasoning Statement:

You declined to accept a new assignment for a period of (length of assignment) offered to you by your previous employer. However, the job offer is similar to work you have performed in the past; therefore, you refused suitable work and are subject to disqualification pursuant to the above-cited section of the Law.

Note: The adjudication of issues pursuant to §25(e)(1), arising when a claimant is alleged not to have contacted a temporary help firm for reassignment upon completion of an assignment, should not be confused with the circumstances noted above. Suitable work and "not in unemployment" issues such as described above, will arise when a claimant, *otherwise eligible for benefits*, is offered work by a temporary help firm.

1132 PRE-EMPLOYMENT DRUG TESTING

Certain job applicants may be required to submit to drug testing prior to hire. This is especially true when the prospective job involves safety-sensitive work. For example, effective January 1, 1996 all new employees holding a commercial driver's license and subject to the Department of Transportation's (DOT) substance abuse regulations for commercial motor vehicle drivers must be tested for drug use before performing any safety-sensitive or security-related functions. These new DOT provisions include the testing of privately employed transportation employees for both alcohol and drugs. For suitable work determinations, all of the following must apply:

- The drug testing is required by the employer because the job involves safety or security related work;
- The drug testing is required by Federal or state law or regulations;
- The claimant was informed in writing at the time of application for hire of the employer's intent to conduct a drug test upon actual offer of employment;
- The drug testing is required of all similarly situated job applicants; and
- The testing conformed to procedures outlined in 1327: Rules Prohibiting Falsification of Information.

If the claimant takes a drug test under the above conditions and tests positive, the positive test result will not be deemed a work-related violation so as to deny unemployment benefits. However, claimants may be disqualified for refusal of suitable work under §25(c) of the Law if, as applicants for a job, they refused to submit to pre-employment drug testing.

(A) Positive Pre-Employment Drug Test

A claimant accepts an offer or a referral of suitable work conditional upon passing a drug test and submits to a valid pre-employment drug test but is not hired because of a positive test result. Testing positive under such circumstances will be considered analogous to failing a physical examination and no disqualification for benefits under §25(c) of the Law will result due to an applicant's failure to obtain employment for this reason.

Form 124 Explanation:

The claimant was not hired because of a positive drug test result. This is not considered a refusal of suitable work and the claimant is not subject to disqualification under the above-cited section of the Law.

(B) Refusal to Submit to Pre-Employment Drug Test

A claimant refuses an actual offer of suitable work or a referral to an actual offer of suitable work because the employer requires a pre-employment drug test under the conditions specified above. If a claimant fails to apply for work or refuses to accept work because the employer requires a pre-employment drug test, he is ineligible for benefits on the basis of having failed to apply for or to accept work without good cause. The claimant is subject to disqualification for refusal of suitable work under §25(c) of the Law.

Form 3720 Explanation:

You declined to accept an actual offer of work which required a valid pre-employment drug test. Such drug testing is required in this type of work and you received written notice of the employer's drug testing policy. Since you have refused an offer of suitable work, you are subject to disqualification under the above-cited section of the Law.

1140 DOMESTIC VIOLENCE

Claimants who are victims of domestic violence (or whose dependent children are victims of domestic violence) are subject to the provisions of M. G. L. Chapter 151A, §25(c). These claimants must be available to accept suitable *work*.

The definition of suitable work includes criteria applicable in cases of domestic violence. In cases in which the claimant or claimant's dependent child is a victim of domestic violence, the work must, in addition to the standard criteria, also accommodate the claimant's need to address the physical, psychological and legal effects of domestic violence.

Accommodating the claimant's need to address the physical, psychological and legal effects of domestic violence may entail the claimant's need for:

- a schedule of working hours that will allow the claimant to make required court appearances, meet with legal representatives, obtain or continue treatment, or accompany a dependent child who requires such treatment.

An employer might accommodate such a need either by structuring a regular schedule of working hours that will enable the claimant to keep regularly scheduled appointments and/or by allowing sufficient flexibility in the schedule of working hours as to accommodate the claimants need to obtain treatment when available. If a particular job can not accommodate such a need, then it is not suitable;

- a work location or schedule of working hours that will permit the claimant to travel to and from the workplace work in safety; and
- a workplace that provides a secure work environment not readily accessible by an abuser.

The above examples illustrate the more common issues likely to arise in cases in which a claimant declines a referral to a job opening or an offer of work. Claims adjudicators will encounter a variety of circumstances in cases involving domestic violence. The claimant's statement should detail the reason or reasons that the job conflicted with the claimant's need to address the effects of domestic violence and was thus unsuitable.

Claims adjudicators will obtain the claimant's statement of facts and refer the case to the Determinations Department for the issuance of a determination.

1150 FORMS AND PROCEDURES**(A) Disqualification and Benefit Credit Reduction**

The disqualification imposed under §25(c) is for the week in which the refusal of suitable work or a referral occurs and for the next seven weeks, for a total of eight weeks. The disqualification also includes a reduction of the claimant's benefit credit.

If the work was available for at least four but less than eight weeks, the benefit credit will be reduced by four times the benefit rate or the entire benefit credit, if less than four weeks remains.

If the work was available for eight or more weeks, the benefit credit will be reduced by eight times the benefit rate or the entire benefit credit if less than eight weeks remains.

(B) Use of Form 3720E, Notice to Claimant of Disqualification for Failure to Apply for, or to Accept Suitable Work

Issue all disqualifications under §25(c) on Form 3720E. If an overpayment results from a §25(c) disqualification, continue to use Form 3720E instead of Form 3727B.