

# Membership Matters

Quarterly News from The 501 Alliance

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*December 2017*

## **New Members Join The 501 Alliance**

The board approved five new organizations for membership at their November meeting. This will increase total membership in our group to approximately 345 nonprofit agencies across the state of Michigan.

The board would also like to thank those members who took advantage of our Member Referral Program and helped us to recruit new members. As a reminder, this program provides your organization with a \$50 charitable donation for every prospective member who completes and submits an application for membership. An additional \$150 charitable donation is provided to your organization for every prospective member who also qualifies and is approved for membership. In total, up to \$200 can be received for each prospective member referred to The 501 Alliance.

To receive your referral check, the applicant simply needs to include the name of your organization on their application. In addition, there is no limit to the number of prospective members you can refer. For example, refer just five prospective members and your agency will receive at least \$250 and up to \$1,000.

You can also contact us at any time to inquire about the status of any nonprofit you have referred. If you have any questions, please contact us at 800-968-9675. You can also visit our web site at [501alliance.org](http://501alliance.org) for more information.

## **What Constitutes a Valid Job Offer?**

In regard to unemployment eligibility, whether or not an employer makes a valid job offer to a current employee can play a significant role in the awarding of unemployment benefits. Listed below are some guidelines to follow in regard to making a valid job offer.

- The duties and responsibilities of the new job should be comparable to the old job.
- The rate of pay should be similar to the previous rate of pay.
- The number of hours worked should be the same.
- The location of the new job and the commuting distance should be equivalent.
- An appropriate method should be used to offer the new job (phone, in-person or certified letter).

If the above guidelines are not followed, a job offer may not be considered valid and the claimant may be eligible to receive unemployment benefits if a claim is filed.

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### How Would You Rule?

#### **Background:**

The claimant was discharged for inappropriate behavior. The claimant was allowed benefits upon a finding he was discharged but not for misconduct connected with work. The employer appealed and a hearing was scheduled before an Administrative Law Judge (ALJ).

#### **At the Hearing:**

*Employer's Evidence:* The employer's witness testified that he received an anonymous note regarding the claimant's behavior as a supervisor. The note indicated the claimant had directed profanity and harassing language toward a female supervisor. The witness interviewed the claimant and his six employees. The witness testified the claimant's employees who were interviewed had seen and heard the claimant's inappropriate behavior toward the female supervisor as described in the note. The employees also reported the claimant had directed profanity and disrespectful language toward them in the past. The employer discharged the claimant for violating its zero-tolerance conduct policy, which the claimant received at hire.

*Claimant's Evidence:* The claimant denied the incidents as reported by the employer. The claimant testified he had never received any warnings regarding his behavior and had never had any problems working with his fellow supervisor or his employees.

#### **The Hearing Decision:**

The ALJ found the claimant was discharged for misconduct connected with the work and he was disqualified from benefits. The ALJ found that despite the fact that the claimant denied the allegations, the employer had presented sufficient evidence to show the claimant had violated the employer's policy. The claimant's actions were so severe they rose to the level of misconduct connected with work. The claimant appealed, arguing he had not behaved in the way the employer had testified to and that he had never received any warning regarding inappropriate behavior.

#### **The Board of Review Decision:**

The Board of Review disagreed with the ALJ and reversed the decision. The Board found the employer failed to prove the claimant behaved inappropriately. The employer's testimony consisted entirely of second- and third-hand testimony. While hearsay is admissible in administrative hearings, the state could not find the employer's hearsay evidence as more credible than the claimant's credible first-hand denials. The employer failed to prove the claimant behaved inappropriately and therefore failed to meet the burden of proving misconduct. The claimant was allowed benefits.

#### **Takeaway:**

In a discharge case, the employer bears the burden of proving the claimant was discharged for a reason which should disqualify the individual from the receipt of benefits. In this case, the Board found the employer's hearsay evidence did not establish the claimant had violated the employer's policy. Since the employer did not prove the claimant had violated its policy, the employer was unable to prove the events that led to the claimant's discharge should disqualify him from the receipt of benefits.