

Temporary Staffing Services, PEOs And Workers' Compensation

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Robert Shepard has been practicing in the area of workers' compensation law for over 30 years. After earning a B.A. from George Washington University and a J.D. from Case Western Reserve University, Mr. Shepard was admitted to practice law in Ohio in 1980.

Mr. Shepard was a District Hearing Officer with the Industrial Commission of Ohio from April, 1981 - November, 1983. He was then promoted and served as a Staff Hearing Officer and the Chief of the Cleveland District of the Industrial Commission of Ohio from November, 1983 - November, 1985.

From November, 1985 - November, 2001, Mr. Shepard was an attorney with the law firm of Climaco, Lefkowitz, Peca, Wilcox & Garofoli, Co. L.P.A., where his emphasis was in the representation of both employers and claimants in all issues involving workers' compensation.

From December, 2001 to present, Mr. Shepard has been the In-House Counsel for Minute Men, Inc. and its associated companies. He is also the General Counsel for Minute Men HR Management Services, Inc., a full-service human resources provider.

Mr. Shepard has been certified by the Ohio State Bar Association as a specialist in the area of workers' compensation law since 1999 (the first year that certification was available) and has been an Adjunct Professor/Lecturer of Workers' Compensation at Cleveland-Marshall College of Law since 1985.

Temporary Staffing Services

Definition –

A company that hires workers for the purpose of providing that workers' services for period of time to fill vacant position(s) at the customer-employer's location.

Employer of Record –

For the purposes of a workers' compensation claim, the staffing service is deemed to be the employer of record (as opposed to the customer). As the employer of record, those actions which are required of that employer in the w.c. claim would need to be performed by the staffing service. For the purposes of coverage, a staffing service can be either a self-insured employer or a state-funded employer.

VSSR –

For the purposes of a VSSR, the customer is deemed to be the responsible/liable employer relative to the VSSR. The staffing service is deemed to not be the responsible/liable employer relative to the VSSR (even though it remains the responsible employer for the underlying claim).

Case Law –

Daniels v. MacGregor (1965), 2 Ohio St.2d 89, 206 N.E.2d 554

State ex rel. Newman v. Indus. Comm. (1997), 77 Ohio St.3d 271, 673 N.E.2d 1301

Professional Employer Organizations (PEOs)

Definition –

A PEO is a company that provides a service where an employer can outsource certain human resource responsibilities, such as benefits, payroll and workers' compensation by entering into a contractual agreement to employ the work force for a client employer relative to those responsibilities. This contractual relationship creates (to a degree) a co-employer relationship.

Basic Requirements of the PEO –

Notify customer-employer' workers that they are employed by the PEO.

Be responsible for the payment of wages and related-taxes for those employees of the customer-employer (for workers' compensation purposes, this imposes the responsibility to report payroll, claims and pay premium relative to the "shared employee").

Employer of Record –

For the purposes of a workers' compensation claim, the PEO is deemed to be the employer of record (as opposed to the customer). As the employer of record, those actions which are required of that employer in the w.c. claim would need to be performed by the staffing service. For the purposes of coverage, a PEO can be either a self-insured employer or a state-funded employer.

Statutory Authority –

PEOs are controlled by Chapter 4125 of the Ohio Revised Code and 4123-17-15 of the Ohio Administrative Code.