

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA

INTERPRETATION NO. 265

TO: Employment Security Commission

FROM: T. S. Whitaker, Chief Counsel

SUBJECT: Seasonal Pursuits, N.C. Gen. Stat. § 96-16.

Inquiry has been made whether any federal employment can be determined a “seasonal pursuit” under this section of the Employment Security Law. Pursuant to 5 U.S.C. §8501 et seq., and 20 C.F.R. §§ 609.1 et seq., wages from services performed in federal civilian service are assigned under applicable State law for determination and payment of unemployment insurance benefits. North Carolina, of course, by agreement with the U.S. Secretary of Labor, is a recipient of such assignment of wages and pays unemployment insurance benefits on this “UCFE” (unemployment compensation for federal employees) type of claim.

20 C.F.R. § 609.9 sets forth the provisions of any State law applicable to UCFE claims. While claims, information, notices, decisions, eligibility requirement, disqualifications, wage combining, and other procedural requirements are applicable, no mention is made of “seasonal pursuits” applied for by any “federal agency”, as defined in 20 C.F.R. § 609.2(e). From this omission in federal law and regulations, we conclude that benefit claims and payments re under North Carolina law, but employee coverage is not. This conclusion is supported by 20 C.F.R. S609.2(f) which defines “federal civilian service.”

To determine such service as a “seasonal pursuit” under N.C. Gen. Stat. § 96-16, this Commission would have to make such determination in terms of “Pursuit”, which is defined as “. . . an employer or branch of an employer.” N.C. Gen. Stat. § 96-16(j)(1). Federal law and regulations prohibit this State from making such determination.

In summary, no “seasonal pursuit” determination on federal civilian service can be made by this Commission pursuant to N.C. Gen. Stat. § 96-16, although, presumably, the Congress or the U.S. Secretary of Labor could amend the law and regulations to provide for such determination to be considered. No such application has been received from any federal agency for such determination, and none is under consideration. If any application is received, it will be denied by this Commission based on current federal law and regulation.

Adopted as an official Interpretation by the Commission on March 31, 1987.