



## Seasonal Employees & Interns: Not Your Typical Employee

Seasonal employees and interns are common additions to the staffs of MCIT members. Summer is an exceptionally busy time with many additional special projects and is often a prime time for seasonal employees. Likewise, interns can obtain valuable work experience along with earning educational credits from their educational institutions. There are similarities and differences when considering the exposures that come with seasonal employees and interns, how MCIT coverage may or may not apply and how to manage the risks.

### Exposures

#### Exposure Differences: Seasonal Employees vs. Interns

##### Seasonal employees:

- **Lack of experience**  
Because seasonal employees often lack experience, close supervision may be necessary to ensure that seasonal employees work at their jobs safely.
- **Training and orientation**  
Training and orientation is important depending on the type of work being done by the seasonal employee (e.g., office setting, highway, sheriff's).

Example: Training on lawn mower operation when lawn mowing is a function of the job.

- **Proper equipment**
- **Subject to the Public Employees Labor Relations Act (PELRA)**  
PELRA MS179A.03 identifies public employees that are subject to requirements. To be considered a seasonal employee, an individual cannot be employed for more than 67 working days in any calendar year. Once a seasonal employee exceeds the 67 working days he/she is subject to collective bargaining and employee benefits.
- **Child Labor Standards**  
Seasonal employees under the age of 18 years old must comply with federal and state Child Labor Standards. Minors under the age of 14 years are able to work in only very limited occupations (e.g.,

newspaper carrier). While 16 and 17 year olds have prohibited occupations, 14 and 15 year olds are only able to work limited hours. Violations to the Child Labor Standards may result in fines and penalties which are not paid by MCIT's coverage. Employers in violation of the Child Labor Standards are responsible for covering the amount of any fines imposed.

### **Interns:**

- **Wages**

If an intern is unpaid it is important to clearly state that the intern is not paid a wage, salary, or stipend.

- **Responsibility**

An unpaid intern raises the question of who is responsible—the educational institution or the entity providing the work. Exposures to both entities will also depend on the type of work being done by the intern (e.g., general office, social services, law enforcement). MCIT recommends having an agreement in place with the educational institution. The agreement should clearly spell out responsibilities and the length of time for the internship.

- **Subject to the Public Employees Labor Relations Act (PELRA)**

The Public Employees Labor Relations Act (PELRA) exempts interns if under age 22 and a graduate student.

## **Exposure Similarities: Seasonal Employees & Interns**

### **Seasonal employees and paid interns:**

- **Workers' compensation**

- **Subject to MN OSHA standards**

Seasonal employees and interns are subject to MN AWAIR, Right to Know, Personal Protective Equipment, Bloodborne Pathogens, Lockout/Tagout, Confined Space Entry, and Machine Guarding.

- **Not eligible for MCIT's Employee Assistance Plan (EAP)**

- **Subject to Rules & Requirements of FLSA, PERA, PELRA**

## **MCIT Coverage**

### **Coverage Similarities: Seasonal Employees & Interns**

#### **Property**

The MCIT Coverage Document covers the personal property of a seasonal employee or intern only if the property is used for the benefit of the member, meaning a work related purpose. If the property is unscheduled, the maximum amount of coverage is \$5,000 per loss occurrence. An example of a personal property item that could be covered is a laptop computer owned by a seasonal employee or intern. If the member has approved its use for the benefit of their work, the computer will be protected against loss once the amount of loss is over the member's property deductible. If a higher amount of coverage is needed, the property can be added to the Member's property schedule.

#### **Liability**

Seasonal employees and interns meet MCIT's definition of a "covered party". MCIT's Liability coverage will respond to liability claims on behalf of the member involving claims for workers (including seasonal employees and interns) while acting within the scope of their duties on behalf of the member in their official

capacity. The complete definition of a “covered party” can be found in the Liability section of the MCIT Coverage Document, Section VI. Definitions section.

There is a possibility that a lawsuit could name the member and the individual seasonal employee or intern. If the claim involves a matter that is work related liability coverage will respond to the lawsuit. Coverage is subject to the terms, conditions, limitations and exclusions contained in the MCIT Coverage Document.

### **Automobile Liability and Physical Damage**

A fundamental rule of auto liability is that coverage follows the vehicle. MCIT’s automobile coverage responds to claims caused by seasonal employees or interns while driving member-owned vehicles for a work purpose. Both liability coverage and physical damage coverage will apply to any scheduled vehicle if involved in an accident when a seasonal employee or intern is driving.

The seasonal employee’s or intern’s personal auto insurance must respond to claims that occur while they are driving their own vehicles even when driving for a member’s work purpose. If a claim occurs when the seasonal employee’s or intern’s liability limits are exhausted, the member’s hired and non-owned auto liability coverage provides excess limits for them. MCIT provides no physical damage coverage for a seasonal employee’s or intern’s personal vehicle.

## **Coverage Differences: Seasonal Employees & Interns**

### **Employee Dishonesty Faithful Performance Bond**

#### **Seasonal Employees and Paid Interns**

Generally, the type of loss that comes to mind for Employee Dishonesty Bond coverage is the theft of money. However, this coverage also extends to theft of tangible property and faithful performance of duty. The member must suffer a financial loss in order for a claim to exist. For coverage to apply the person stealing must fit the definition of an employee; namely, a “person in your service and for 30 days after termination whom you compensate by salary, wages, or commissions.” Seasonal employees will be paid a wage or salary, thus they meet the definition of an employee. If an intern is paid a wage or salary, he/she also fits the definition of an employee.

#### **Unpaid Interns**

Interns that are not paid a wage do not meet the definition of an employee and will not be protected by the bond coverage. The lack of coverage should be a consideration if an unpaid intern is handling money or personal property owned by the member.

### **Workers’ Compensation**

#### **Seasonal Employees**

Minnesota Statute 176.011 (subdivision 9) defines an “employee.” An employee means any person who performs services for another for hire.” A seasonal employee meets this definition. If a seasonal employee is injured during the course and scope of his/her employment, he/she may be eligible for workers’ compensation benefits. Coverage will include payment for medical bills, lost time at work, and if necessary pay to re-train the employee.

Employers should be careful when hiring minors to work as seasonal employees because of the rule on imputing wages. Rather than using the minor’s actual wages for calculation of indemnity payments, the

wages are imputed up to the maximum compensation rate if there is a permanent disability sustained and the date of the injury is after October 1, 1992. The policy is to ensure that benefits received as an adult are not governed by low wages typically earned when the employee was a minor and at the bottom rung of the career ladder and to discourage employers from hiring inexperienced workers to do dangerous work.

A compensation court has determined three factors to consider in deciding if an injured minor has sustained an earning capacity impairment due to an injury: the spectrum of jobs available to the employee; the employee's ability to compete for those jobs, and the employee's ability to compete with other employees once the job is procured.

If an employee sustains an injury that causes permanent disability, the costs to the employer are far greater than the wages attributed to the class of employees.

### **Paid Interns**

If an intern is paid a wage or salary he/she is considered an employee according to MS§176 and will be eligible for workers' compensation benefits if he/she is injured within the course and scope of his/her job.

### **Unpaid Interns**

Since unpaid interns require no remuneration, they will likely not be eligible for workers' compensation benefits. There are exceptions according to MS §176 for interns who work in law enforcement (e.g., EMTs, posse team, dive team) and in emergency management.

Even though interns receive no "remuneration," an argument may be made that they do receive a benefit; namely, valuable work experience and educational credits. This alone may qualify interns as employees under MN Statute §176 and make them eligible for workers' compensation benefits if injured "on the job." The court will make the final decision on who is responsible for the claim. The critical question for the court will be "who directs and controls the intern's work activities." If the court determines the intern is an employee of the member rather than the educational institution, MCIT likely will respond and provide the statutory benefits to the injured intern.

It is important to clearly communicate to interns their position within the organization and to register them as interns. MCIT recommends having contractual agreements with any educational institutions that clearly outline the relationship of the intern to the member and the educational institution. In some cases the contracts maintained by the educational institution provides coverage for interns if they are injured during their internship.

## **Risk Management**

### **Risk Management for Seasonal Employees**

- Provide proper training and orientation for all seasonal employees
- Include seasonal employees in training sessions even in the off-season
- Provide proper safety gear such as shoes, safety vests, hard hat, eye protection
- Properly supervise all seasonal employees
- Provide accurate job descriptions
- Understand the Federal and State Child Labor Standards
- Follow either Federal Standard or the State Standard rules that provides the most protection for a minor
- Compare job descriptions to the Child Labor Standards if a minor is hired

- Understand that MCIT's coverage applies the same to full-time, part-time, and seasonal employees
- Understand and apply PELRA requirements
- Report any claim or incident involving a seasonal employee to MCIT

### **Risk Management for Interns**

- Determine if the intern will be paid any wage, salary, or stipend
- Obtain an agreement with the educational institution which is providing the intern to outline responsibilities
- Register unpaid interns
- Keep a file for each intern that includes essential information such as name, address, telephone numbers, emergency contacts, date of birth, social security number
- Do reference checks
- Invite interns to training meetings such as safety meetings, first aid/CPR courses, that will help them to perform their assigned activities
- Advise interns that they are responsible for their own personal property if it is not used for the benefit of the member
- Take into consideration whether the intern is paid and considered an employee or unpaid. Remember that Employee Dishonesty Faithful Performance Bond does not apply to unpaid interns
- Report any accident or injury to MCIT immediately so that a timely and thorough investigation can be completed

### **Risk Management for Use of Personal Vehicles (Both Seasonal Employees and Interns)**

- Develop driver qualifications and apply them consistently
- Obtain a copy of the intern's driver's license
- Obtain proof of auto insurance
- Check all vehicles used by interns for member business for safety
- Offer defensive driving courses
- Remind drivers seatbelts are mandatory
- Advise interns they are responsible for physical damage losses to their own vehicles

## **Conclusion**

In conclusion, this resource discussed how exposures for seasonal employees and interns have differences and similarities. Coverage for property, liability and automobile are similar. However, there are differences in the coverage for Employee Dishonesty Bond and workers' compensation. Risks for both seasonal employees and interns can be managed. If you have questions concerning seasonal employees or interns, contact your MCIT risk management consultant at (651) 209-6400.