

UNEMPLOYMENT BENEFITS

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Name (Last) PUBLIC

Address (Mailing Address)
12345 MAIN STREET

E-Mail Address JQPJQPJQPJQPJQP

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Phone (Home) 1111-1111
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SUBJECT

REVIEW

The FindLaw Guide to Unemployment Insurance

The FindLaw Guide to Unemployment Insurance

Losing a job can be a very stressful experience. Fortunately, Unemployment Insurance can provide some income until you find your next job. Here's some information on the how to get these benefits.

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Introduction

Unemployment compensation, also commonly referred to as unemployment insurance (UI), is a government sponsored and administered benefits program that provides financial support to qualified unemployed workers. Every state has different rules and regulations, so here is a general overview of unemployment compensation benefits and how to get them.

Who Can Apply for UI

In general, [qualified employees](#) must meet the following conditions in order to receive unemployment compensation in their state:

- The individual is a U.S. citizen or can prove a legal right to work in the United States;
- The individual was employed for a certain period;
- The individual earned a certain amount in wages before becoming unemployed;
- The individual is available for work immediately; and
- The individual is physically able to work.

Part-time workers and temporary workers may qualify if able to meet the conditions of their state.

Can I Receive Benefits if I was Fired?

An employee who was fired may still qualify for benefits. In general, if you were fired for something that was not your fault, as in a layoff, you can still receive benefits. On the other hand, if an employer fires an employee for misconduct that was deliberate and repeated, it will disqualify the employee in most states. Common types of misconduct include:

- Frequent tardiness;
- Unexcused absences;
- Violation of the rules of the workplace;
- Intoxication on the job;
- Sleeping on the job;
- Dishonesty;
- Extreme insubordination;
- Sexual harassment; and
- Actions that cause substantial injury to the employer's business.

Misconduct usually does not include behavior that amounts only to poor performance like carelessness, lack of skill, or errors made in good faith.



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Can I Receive Benefits if I Quit?

An employee that quits a job is typically ineligible for unemployment compensation unless it was for “good cause,” in other words, there was a condition that would have caused the employee harm if they stayed on the job. Good cause usually includes the following:

- The health or life of the employee was endangered;
- The employee was subject to intolerable working conditions, such as sexual harassment or discrimination and the employer refused to remedy the problem;
- The job was relocated to a location that substantially increased an employee’s commute time or the job was relocated to another state;
- The employee’s spouse relocated to another state for a new job;
- The employee had a compelling personal reason, such as taking caring for a sick family member.

In most states, good cause for quitting a job excludes such reasons as career advancement or job dissatisfaction.

How Do I Apply for UI?

To receive unemployment benefits, an unemployed worker must file a claim with the agency in their state that handles the requests. The [process](#) is fairly simple. First, an unemployed worker must file an unemployment claim with the state agency as soon as possible after losing her job.

The unemployed worker typically must provide documentation, such as recent pay stubs, and proof of unemployment status. There is usually a one week waiting period before the worker receives benefits. Once the state department of labor receives the worker’s claim, it will then assess the worker’s benefit eligibility by reviewing citizenship status, past employment, and wage; then by verifying the reason for job loss. The unemployment agency will send an inquiry to the former employer asking for verification of the reason for termination, and issue a decision.

Either the employee or the employer may appeal a UI decision. If an employer appeals a decision, the employee can still collect benefits until the decision is reversed. If the former employer prevails, the employee may have to repay the amount received in benefits. There are three levels of appeal. First, the appeal will typically be a [hearing](#) in front of an officer within the state agency. At the hearing, both parties may have an attorney and can present witnesses and relevant written records to the hearing officer. Second, the case will go to an appeal officer within the organization. If either party is still dissatisfied with the ruling, it can be appealed a third time to the state court system. In all likelihood, however, the state court will confirm the decision unless it is unsupported by evidence or the law.



Should I Talk to an Attorney?

UI programs are designed to be navigated without an attorney. However, if you believe you were wrongfully terminated, or need to appeal a decision to the court system, you may wish to hire an employment law attorney.

You can locate an employment law lawyer now by visiting [Findlaw.com](#) and choosing among several quality-assured lawyers in your area.

For More Information

Regarding unemployment insurance and other employment issues, please visit our website at <http://employment.findlaw.com/losing-a-job/>

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