

KNOW YOUR RIGHTS

WHAT YOU SHOULD KNOW ABOUT UNEMPLOYMENT INSURANCE

1. What is unemployment insurance?

Unemployment insurance is an assistance program for temporarily unemployed workers run by the New York State Department of Labor. You do not have to be a U.S. citizen or hold a Green Card to qualify for this benefit but you must have been working with a valid work permit and currently possess a valid work permit. You can receive up to 26 weeks of unemployment insurance benefits in an amount approximately equal to one-half of your past weekly pay - up to a maximum of \$430 per week.

2. How do I apply for unemployment insurance?

You can apply for unemployment insurance either by calling **1-888-209-8124** or over the internet at <http://www.labor.state.ny.us/>.

3. Who is eligible for unemployment insurance?

You are eligible for unemployment insurance if you meet the following requirements:

- you left your last job under circumstances that were not “disqualifying;” (Details below at # 4)
- you earned enough money prior to filing for unemployment benefits: you need to have earned at least \$2100 in one of the last five quarters (a quarter is a 3 month period) and earned at least half of what you earned in your highest quarter in your “base period” (a base period is the year

- before the last completed quarter) and
- you are available for work and looking for work.

4. What are “disqualifying circumstances” for leaving a job?

If: (1) you were fired for “misconduct” or (2) left your job voluntarily and “without good cause;” you are considered to have left your past job under “disqualifying circumstances” and are ineligible for unemployment insurance.

BUT, the Department of Labor will investigate your claim and it – not your employer – decides whether there was misconduct; whether you left the job voluntarily; and whether there was a good reason for you to leave your job.

5. Do I have to certify for benefits after I apply?

Yes. You must certify that you did not work and were both available for employment and looking for work every week for which you want unemployment insurance benefits. You must do this every week even if you are waiting for a decision on your application or your application has been denied and you are appealing.

You should NOT certify:

- If you were too sick to work.
- If you could not have worked because you cared for a child or someone else who was sick or disabled.
- If you were outside of the U.S.
- If your work permit has expired.
- For any days that you worked, even if off the books.

The Department of Labor is very strict about this requirement and you may have to pay back benefits or even be subject to possible criminal consequences for misrepresentation.

To certify for benefits you must either call **1-888-581-5812** or use the internet (<http://www.labor.state.ny.us/>)

6. What is a Monetary Determination?

The first determination you receive after you apply is called a “Monetary Determination.” It is the Department of Labor’s determination of whether you earned enough money to qualify for unemployment insurance. If you are found eligible, the Monetary Determination tells you how much your benefits will be. The calculation is based on how much income the Department of Labor believes you had in the last four quarters before the most recently concluded quarter.

If you think the Department of Labor is wrong about your income, you can request reconsideration of the monetary determination. You have **30 days** to do this. You should submit a “Request for Reconsideration” form from the New York State Department of Labor, P.O. Box 15130, Albany, NY 12212. This form is provided in the Unemployment Insurance Claimant Handbook you receive when you apply for benefits or can be downloaded from the Department’s website (<http://www.labor.ny.gov/formsdocs/ui/TC403HR.pdf>)

You can also ask the Department of Labor to use the “Alternate Base Period” to calculate your benefits. If you made more money in the four most recently completed quarters than you did in the four quarters prior to the most recently completed quarter, using the Alternative Base Period to calculate your benefits may result in a higher weekly benefit rate. You have only 10 days from the date of your Monetary Determination to file a “Request for Alternate Base Period” form. This form is also available in the Unemployment Insurance Claimant Handbook. Forms can be downloaded from <https://labor.ny.gov/formsdocs/ui/claimant-forms-and-publications.shtm> and must be sent to the New York Department of Labor, P.O. Box 15130. The form can be returned by fax to 518-457-9378 or by mail to New York State Department of Labor, P.O. Box 15130, Albany, NY 12212-5130.

7. What is an Eligibility Determination?

An “Eligibility Determination” is the Department of Labor’s decision about whether you meet the eligibility criteria for Unemployment Insurance. See # 3 above.

8. Can I appeal if my application is denied?

Yes. If you receive an Eligibility Determination that says you are not eligible you can request a hearing by writing a letter requesting a hearing to the New York State Department of Labor, P.O. Box 15131, Albany, N.Y. 15131. You have 30 days from the date on your notice to request a hearing.

9. Can I be represented at a hearing?

Yes. If you need representation at an unemployment insurance hearing, Legal Aid’s Employment Law Unit may be able to help you. Call **888-663-6880** on Wednesdays and Thursdays between 9:30 a.m. and 12:30 p.m. for information on requesting assistance.

10. Can I get my hearing postponed or “adjourned?”

Yes. You can request a delay or adjournment of your hearing -- in writing or by calling ahead of time -- if you have a good reason. Such reasons include needing time to meet with your representative, needing more time to gather evidence, and jury duty. If you do not request a delay in advance, you must attend the hearing and request it in person. You are only entitled to one adjournment.

11. What happens if my employer or I do not go to the hearing?

If you or your employer miss the hearing, the party missing the hearing can request to reopen the hearing by writing to the Unemployment Insurance Appeal Board, ALJ Section, P.O. Box 697, New York, NY,

10014 within a reasonable time. The first time a party requests to reopen a hearing, a new hearing will be scheduled and a hearing judge will consider whether the party had good cause for missing the prior hearing.

12. What happens at a hearing?

At the hearing, a hearing judge called an “Administrative Law Judge” or “ALJ” will preside over your case. The ALJ will ask questions of both you and your employer under oath. You can present documents or other written evidence. Each side will have a chance to ask each other questions (“cross-examine”) and give the judge a final spoken summary of their case (a “closing statement”). If you or one of your witnesses needs a translator, one must be provided.

13. Can I appeal if I lose my hearing?

Yes. Either party who loses a hearing can appeal by writing a letter to the Unemployment Insurance Appeal Board, P.O. Box 15126, Albany, NY 12212 within **20 days** of the decision.



MAKING THE CASE FOR HUMANITY

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