APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS: THE BASICS

MFY LEGAL SERVICES, INC.
Workplace Justice Project
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What is Unemployment Insurance?

New York State has an unemployment insurance program that:
• Supports people who have lost their jobs and cannot find work;
• Pays about half as much as the job you lost, up to $405 each week; and
• Lasts for up to 26 weeks; however, in times of economic crisis, the federal government may extend benefits for up 99 weeks.

Who Is Eligible for Unemployment Insurance?

• You must have adequate past earnings at your previous jobs;
• You must have lost your job through no fault of your own;
• You must be currently unemployed, or partially unemployed;
• You must currently be able to work and be looking for work; and
• You must have worked and earned enough in the past year and a half.

What Are Considered “Adequate Earnings?”

• You must have worked and been paid wages in at least two calendar quarters within the calendar year:
  • Quarter 1: January-March
  • Quarter 2: April-June
  • Quarter 3: July-September
  • Quarter 4: October- December
• You must have earned at least $1600 in one quarter (this is called the “High Quarter”); and
• Earnings outside the “High Quarter” must be at least 50% of the “High Quarter” earnings.
** It does not matter whether the earnings came from a single job or from different jobs.

What Counts as Losing Your Job “Through No Fault of Your Own?”

• You Were Laid Off
  • No one was hired to replace you;
  • Your employer went out of business;
  • Your employer laid you off because there was not enough work for you; or
  • Your position was eliminated because of “downsizing.”

You were fired
• You are not eligible for unemployment benefits if you were fired for misconduct, which means intentionally or carelessly ignoring your employer’s rules or interests. You may be eligible for benefits even if you were fired for the following reasons:
  • You boss didn’t like you;
  • Your employer thought that you weren’t doing a good enough job.
• You did not voluntarily quit without good cause
  • Quitting your job voluntarily will usually disqualify you from receiving benefits. However, you may still be eligible if you can show that you quit with "good cause." There can be good cause to quit if:
    • Your employer significantly changed your hours, wages, or duties; or
    • Your working conditions were dangerous or violated laws that protect workers.

What Counts as Being Currently Unemployed?

• Total Unemployment
  • If you are not working for pay, or running your own business, then you are totally unemployed and are eligible for full benefits.

• Partial Unemployment
  • If you are working some, but not full time, you may still be eligible for benefits if you earn less than $405 per week in wages. The number of days you work, not the hours, is what matters. For each day that you work your benefits are reduced by 25%. For example:
    • If you work two full days in a week, you usually can still get half your benefits; BUT
    • If you work four half days in one week, you are ineligible for benefits.

**NOTE:** if you find a part-time job, it may help you to work longer hours on fewer days.
  • It is very important to report all work that you do to the Department of Labor.

What Counts as Being Able to Work and Looking for Work?

To be eligible for unemployment insurance:
• You must be physically and mentally able to work;
  • For example, if you are sick and cannot work, then you are not eligible for unemployment benefits until you recover and you are ready to work.
• You must be actively looking for jobs like those you have had in the past or are trained to do; and
• You must accept such jobs if offered.

How Do I Apply for Benefits?

You can apply for unemployment insurance:
• by applying online on the New York State Department of Labor website at https://labor.ny.gov/ui/how_to_file_claim.shtm or
• by calling the telephone claim center at 1-888-209-8124.

Tips for Applying for Benefits

• You should have the following information when you apply for benefits:
  • Your Social Security number;
  • Your New York State Driver’s License or Non-Driver Photo ID number; and
  • The names and addresses of all employers for whom you have worked in the past 18 months.
• Make sure you answer the Department of Labor’s questions honestly. If the Department of Labor decides that you lied, you may face serious penalties and you may have to repay benefits if the Department of Labor later
finds that you received benefits based on lies or misrepresentation as to how you lost your job.

• Stay calm when you answer the questions, and stick to the important facts.
• You should make sure that the investigator gets the full story about how and why your job ended from your perspective, but the investigator is NOT your friend or your therapist—getting angry about your employer or complaining about everything bad that ever happened at your job WON'T help you. Focus on things that relate to why your job ended.

What Happens Next: The Determination Process

• Once you have applied for benefits, the Department of Labor, not your employer, makes the decision whether you are eligible for benefits.
• Your employer may contest the Department of Labor’s decision and the Department of Labor will ask your employer its version of how you lost your job.
• The Department of Labor may send you a questionnaire and request that you provide written responses to questions as to how you lost your job in order to help them make the decision as to whether you are eligible for unemployment insurance benefits.
  • Make sure to read each question carefully before you write your answer.
  • Don’t answer a question that you do not understand.
  • Answer accurately and honestly.

The First Decision: The Monetary Determination Notice

The first notice you will receive from the Department of Labor will be a Monetary Determination Notice. This notice tells you the Department of Labor’s initial decision about:
  • Whether your work and earnings meet the requirements for getting unemployment insurance; and
  • How much your weekly benefit will be, if you do meet the work and earnings requirements.

If the Monetary Determination Notice tells you that you do not have enough earnings, don’t give up! You may still be able to get unemployment insurance if:
  • Some of your earnings were not reflected in the Monetary Determination Notice
    • Follow the instructions on the notice to submit a Request for Reconsideration where you can notify the Department of Labor of other earnings that were not listed
  • You made money that wasn’t counted but should have been
    • Although you made cash wages or other unreported earnings or you were misclassified as an independent contractor, you may still be able to use these earnings to be found eligible for unemployment benefits!
    • Those earnings should be reported to the Department of Labor as soon as possible.
    • Use the “Request for Reconsideration” as described on the back of the Monetary Determination Notice and supply any records you have that can document your wages.

Getting Turned Down: The “Notice of Determination of Ineligibility for Benefits”

This notice is what you get when the Department of Labor rejects your claim. If you receive this notice and disagree with the reason it gives for denying your benefits, don’t give up!
• If you disagree with the reasons in the Notice of Determination, you may request a hearing within 30 days of the date of the notice.

• Make sure to request a hearing in writing
  • Keep the request simple by stating, “I have received the Notice of Determination dated ___. I disagree with the determination and request a hearing.”
  • Include your Social Security Number, sign the letter, and keep a copy for yourself.
  • Send the letter (via certified mail with return receipt requested) to:
    New York State Department of Labor
    PO Box 15131
    Albany, New York 12212-5131

The Waiting Game

• You will receive an acknowledgement from the Department of Labor after requesting a hearing; however, due to backlogs, after sending a request for a hearing, you may wait up to 3-4 months before receiving a Notice of Hearing. However, hearings may come more quickly. You must check your mail every day.

• While you wait for a hearing date, continue to call in weekly and certify for UI benefits. If you win your hearing, you will still only receive benefits for the weeks that you actually certified for.

• The Notice of Hearing will contain your hearing date, time, and location; and the purpose of the hearing, which lists the issue or issues that will be addressed at the hearing.

Getting Prepared

• When you get your hearing notice, take it to the location where your hearing will take place and pick up a copy of your unemployment insurance file. Your unemployment insurance file contains statements that you and your employer made to the Department of Labor about how you lost your job.
  • Getting a copy of your unemployment insurance file is important because it can help you or your lawyer prepare for your upcoming unemployment hearing.

• Do I need a lawyer?
  • The hearing process is designed so that you do not need a lawyer.
  • While many people attend unemployment hearings without a lawyer, it can be helpful to have a lawyer represent you.

• To speak to a lawyer about your case, you can call the Workplace Justice Project at MFY Legal Services at (212) 417-3838 on Mondays and Tuesdays from 2 p.m. to 5 p.m.

• If you can't find a lawyer and/or you plan to represent yourself at your upcoming hearing, call the Workplace Justice Project at the number above and request a copy of the booklet, “How to Represent Yourself in an Unemployment Insurance Hearing” or download it from MFY’s website at www.mfy.org (Get the Facts).

• If you have questions about the process, you should always ask the judge, and you can present your story in plain, common sense fashion.
To speak to a lawyer about a workplace issue, please call **MFY's Workplace Justice Project:**

**212-417-3838**

Mondays & Tuesdays
2:00 pm - 5:00 pm

**Hablamos español**

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*This handbook has been prepared by MFY Legal Services, Inc. for general information purposes only. The information in this handbook is not legal advice. Please consult an attorney for legal advice, which is dependent upon the specific circumstances of each situation.*

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