

## **Unemployment Insurance: Denial of Benefits**

### **What are some of the reasons I could be denied benefits?**

You cannot receive unemployment benefits if you have less than the required work and wages to establish a claim. The following are also reasons under which unemployment benefits are denied:

1. Voluntary Quit and Discharged. You will be disqualified from receiving unemployment insurance if a) you quit a job without good cause or b) you were discharged for misconduct.
2. Job refusal. You will be disqualified from receiving unemployment insurance if after applying for unemployment insurance, you refuse without good cause to take a job for which you are eligible by training and experience and which pays the prevailing wage for that kind of work.
3. Strike and Other Industrial Controversy. If you lose your job because of a strike, lockout or other industrial controversy in the workplace where you are employed, your rights to unemployment insurance will be suspended for 49 days beginning with the day after you lost your job or until the labor dispute is ended if it does not last 49 days. This applies whether or not you are directly involved in the labor dispute.
4. Availability and Capability. If you are not ready, willing and able to work, are not prepared to take a job immediately, or are not physically or mentally capable of employment, you will not be paid benefits until you satisfy the Department of Labor that you are again available for employment and are capable of working and are making diligent efforts to find a job.
5. Criminal Misconduct. If you are discharged for committing a felony in connection with employment and admit guilt in writing or you were convicted of the crime, you will be disqualified from receiving benefits for 12 months after discharge from employment. Also, wages paid to you for such employment cannot be used to establish a claim for unemployment insurance.

### **What if I am denied benefits?**

If you are denied benefits, a Notice of Determination will be mailed to you telling the reasons why. This notice will also explain for what period of time benefits are being denied, how to requalify, and how to ask for a hearing.

### **How do I request a hearing?**

To request a hearing, you must notify the Unemployment Insurance Claims Center in writing by mail within 30 days after the Notice of Determination is mailed to you. Send your hearing request to: NYS Department of Labor, P.O. Box 15131, Albany, NY 12212-5131. Include your social security number on the correspondence. In a few weeks after you request a hearing, you will receive a "Notice of Hearing", which will contain your case number, hearing date, time, location, and the purpose of the hearing.

### **May I have representation at the hearing?**

You have the right to be represented at the hearing by an attorney or other person.

### **How can I prepare for the hearing?**

You have the right to inspect the file on your case prior to the hearing date at the hearing site. At the hearing, you may testify and present witnesses and documents. If you cannot get necessary witnesses or documents, you may ask the administrative law judge to have them brought in under subpoena. You may question opposing parties and witnesses, and you also may request an adjournment for good reason.

**How is the hearing conducted?**

The hearing will take place in a small office with a table that seats four to five people. The entire hearing can take anywhere from 30 minutes to a few hours. The hearing will be tape-recorded; therefore, speak loudly so that your voice may be accurately recorded. After the hearing, the administrative law judge will mail her decision to you as soon after the hearing as possible. If the administrative law judge decides in your favor, any benefits due to you will be paid, unless the other side appeals.

**What if I lose the hearing?**

If you are denied benefits by the administrative law judge, you have the right to appeal the decision. Appeals must be filed with the Appeal Board within 20 days after the administrative law judge's decision is mailed to you. You will then receive a notice of receipt of appeal, which will explain your appeal rights and the applicable time limits for you to inspect your file, submit a written statement and to reply to statements submitted by other parties.

**How should I prepare for the appeal?**

Request a copy of the hearing transcript in order to have a copy of what happened at the hearing. The appeal is solely based upon what was discussed and presented at the hearing. Therefore, it is important to know exactly what was said at the hearing.

**I lost the appeal. Do I have additional appeal rights?**

If you disagree with the decision of the appeal board, the case may be taken to the Appellate Division of the State Supreme Court, Third Department. To appeal, you must notify the appeal board in writing within 30 days after the board's decision is mailed. You must notify the appeal board of your intention to further appeal in writing to: UI Appeal Board, P.O. Box 15126, Albany, NY 12212-5126. After you have notified the board of your intention to appeal, you will be given further instructions on taking your case to court.