

Benefits for Unemployed Workers

NELP

Fact Sheet for Workers

Advocating for the working poor and the unemployed

Know Your Rights

Employment Law
Clinic for Low-Wage
and Immigrant
Workers

Free legal assistance
is available by
appointment. Call:

(212) 417-3800 on
Mondays &
Wednesdays

(888) 218-6974 on
Tuesdays & Thursdays

The clinic is a joint
project with the Legal
Aid Society and MFY
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National
Employment
Law Project
www.nelp.org

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The Basics: What is Unemployment Insurance?

New York State has an unemployment insurance program that

- supports people who have lost their jobs and cannot find enough work,
- pays about half as much as the job you lost, up to \$405 each week, and
- lasts for up to 26 weeks.

The Details: Who is Eligible for Unemployment Insurance?

The main requirements for unemployment insurance are

- (1) You must have lost your most recent job through no fault of your own;
 - (2) You must be currently unemployed, or partially unemployed;
 - (3) 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.

Immigration status: You may receive unemployment insurance if you are a U.S. citizen, a lawful permanent resident ("green card"), otherwise authorized to work in the U.S., or in one of several special immigration categories. In almost all cases, if you are in the country illegally, you cannot receive unemployment insurance.

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

If You Were Laid Off

You will usually qualify for benefits if your job ended because of things that had nothing to do with you personally, such as:

- 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."

If You Were Fired

You may still be eligible for benefits even if you were fired or terminated. You lose eligibility only if you were fired for misconduct, which means intentionally ignoring your employer's rules or interests. It does *not* include other reasons, such as:

- Your boss didn't like you; or
- Your employer thought you weren't doing a good enough job.

If You Quit

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 could be good cause to quit if

- Your employer significantly changed your hours, wages, or duties; or
- Your working conditions were dangerous or abusive.

What Counts As Being Currently Unemployed?

Total Unemployment

If you are not doing any work for pay, and you are not doing work for 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. The number of *days* you work, not the *hours*, is what matters. For each day of the week that you work, your benefits are reduced by one quarter (25%). For example,

- If you work two full days in a week, you usually can still get half of your benefits.
- If you work four half days in a week, you are ineligible for benefits.

If you find a part-time job, it may help you to work longer hours on fewer days.

What Counts As Being Able to Work and Looking For Work?

To be eligible for unemployment insurance,

- (1) You must be physically and mentally able to work;
- (2) You must be actively looking for jobs like those you have had in the past or are trained to do; and
- (3) You must accept such jobs if offered.

Examples of when you *cannot* refuse a job and still get unemployment insurance:

- You've done the same job recently, but you don't want to go back to that kind of work.
- The job offered is temporary, but you want to wait for something permanent.
- The wages are less than you're used to earning, even though they are typical for the job.

Examples of when you *can* refuse a job and still get unemployment insurance:

- The job requires an unreasonably long commute.
- The job pays significantly less than the usual wage for that type of work.
- The job is not the kind you've done before or been trained to do.

What Work You Must Have Done in the Past

This is a complicated part of the law. If you are unsure whether you qualify, you should go ahead and apply.

Eligibility for unemployment insurance depends on how much you earned in the last five completed calendar quarters. Using the quarter system, you must have

- (1) Worked in two or more quarters,
- (2) Earned at least \$1,600 in one quarter (approximately \$125 per week),

It does not matter whether the earnings came from a single job, or from different jobs.

If you worked steadily and you meet these requirements, your earnings should qualify you for unemployment insurance. Additional rules apply if your earnings changed a lot from quarter to quarter.

How To Apply For Unemployment Insurance

You can file for unemployment insurance benefits by calling the Telephone Claims Center at **1-888-209-8124**. The phone system is in English and Spanish. If you speak Chinese, you can apply in person at the Employment Service Office at 115 Lawrence Street in Brooklyn or 25-15 Queens Plaza North in Long Island City.

You should have the following information ready when you call:

- (1) Your Social Security number.
- (2) Your New York State driver's license or Motor Vehicle ID card number, if you have one.
- (3) Your alien registration card, if you have one.
- (4) The names and addresses of all employers for whom you've worked within the past 18 months.

For more information about the application process, read NELP's fact sheets called

- *Getting Unemployment Benefits and Keeping Them*
- *Were You Turned Down for Unemployment Benefits?*

If you need free legal assistance with your unemployment insurance claim, call the number for the Employment Law Clinic on the front of this fact sheet.