

# Getting Unemployment Benefits and Keeping Them

# 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  
Legal Services

National  
Employment  
Law Project  
[www.nelp.org](http://www.nelp.org)

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### The Basics: The Unemployment Insurance Process

Applying for unemployment insurance can be complicated. This fact sheet can help you understand (1) how to file a claim, (2) how your claim gets processed, and (3) how to maintain eligibility once you start receiving benefits.

### The Application Process: Calling in Your Claim

Most unemployment insurance claims must be filed by using a free automated telephone system. In almost all cases, there is no "unemployment office" where you can file in person.

**Where to Call:** To file your claim, call the **Telephone Claims Center at (888) 209-8124** during regular business hours. 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.

**When To Call:** The **earliest** you can file a claim is the week after you lost your job, but there is no requirement that you file immediately. In some cases, you will still be eligible up to 9-12 months after you lost your job.

**Getting Ready to Call:** When filing your claim, **be ready with the following information.** You can still file if you don't have each item, but there may be some delay in receiving your benefits.

- (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 mailing address and zip code.
- (4) A telephone number where you can be reached.
- (5) Your alien registration card, if you have one.
- (6) The names and addresses of every employer you've worked for in the past 18 months.
- (7) *If you worked for the federal government in the past 18 months:* Copies of forms SF8 and SF50.
- (8) *For recent members of a military service:* Copies of your most recent separation form DD214.

**In addition, be prepared to explain when your last day of work was, and exactly how you lost your job.**

#### Handling the Phone System

Give honest answers to the questions. If the Department of Labor decides that you lied, you may be penalized.

After you answer the automated questions, a live representative of the Department of Labor may ask you some questions. These are some tips about talking to the representative:

- **If you were "laid off" or "downsized,"** emphasize this. Don't just say that you were fired or terminated.
- **If you were fired or terminated,** emphasize any reasons why you were not at fault.
- **If you quit,** emphasize anything your employer did that pressured or forced you to quit.
- **If you were paid "off the books" or as an "independent contractor,"** say what you earned this way.

**Keep on Calling!:** After you've applied, you need to inform the Department of Labor after **every week** when you want to keep getting benefits.

- In New York City, call the Tel-Service Line at **(212) 352-2631**. It may be busy the first few times you call.
- The Tel-Service Line uses English or Spanish, and it is open at almost all hours, including weekends, *except* midnight to 7:30 a.m. Monday to Friday.

If you think you should be getting benefits, **call in your claim** even if

- You haven't started receiving benefits;
- Your benefits started and then stopped again; or
- The Department of Labor has denied your claim, but you want to fight it.

## The Determination Process: The Government's Decision About Your Benefits

Once you have applied, the Department of Labor decides whether to start paying you benefits. *This is the government's decision, not your employer's.* The Department of Labor will, however, ask your employer for its version of how you lost your job. You may also receive requests by phone or mail for more information.

*The First Decision: The "Monetary Determination Notice"* Approximately **2 weeks after you apply**, you will receive a "Monetary Determination Notice." This notice tells you the Department of Labor's initial decision about

- how much you earned during the "base period," the first four of the last five completed calendar quarters;
- 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

- (1) Your recent earnings are not in the Notice. Follow the instructions for using the "alternate base period."
- (2) You had an employer who is not listed in the Notice. This can happen if your employer improperly paid you "off the books" or as an "independent contractor." Follow the instructions for requesting reconsideration, and supply any records you have that can document your wages.

## *The Good News: "Notice of Determination"*

If you receive this notice, you have been found **eligible** for benefits and should begin receiving checks soon.

**Warning:** Sometimes the Department of Labor changes its mind after you start receiving benefits, usually because your employer was late in giving the Department damaging information about your case. If this happens, your benefits will stop coming and you will receive a notice in the mail.

## *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 you benefits, **don't give up!**

- You can request a hearing before a judge and may be able to get the decision changed.
- If you ask for a hearing, remember to **keep calling** the Tel-Service Line to claim benefits.
- Consult NELP's fact sheet titled "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.

## The Reporting Process: Keeping Your Benefits Coming

To stay eligible for benefits, **you must call the (212) 352-2631 Tel-Service Line** once a week and report.

You can only receive benefits for days when are unemployed. If you work three or fewer days in a week, you can still get partial benefits. The law does not consider you unemployed on a day when you spend *any* time doing

- temporary work,
- self-employment or free-lance work (even if you don't earn anything that day), or
- work or "favors" for a business belonging to a friend or relative.

During each week you claim, you must be able to work and be actively seeking work. You should *not* claim

- Any day you were unable to work due to illness; or
- Any day you were out of town.

## Questions About Your Claim?

If you have questions about your claim, you can reach a live representative at the (888) 209-8124 Telephone Claims Center during business hours. You will need to enter your social security number.