

Overpayment

If you receive benefits, but ESD later determines that you were not eligible, you may receive a notice requiring repayment. You may apply for a waiver of the overpayment by appealing at your ESD office within 11 days of written notice. You will get a hearing with on this issue. If you can prove that the overpayment was not your fault and the repayment would cause a hardship, ESD may decide that you do not have to repay the money.

Protecting Your Eligibility For Benefits

In order to protect your benefit eligibility once you have applied, you are required to continually file claims with the local ESD claims office, JobConnect, or by phone or online.

In order to continue to receive unemployment benefits, you must be physically able to work. If you become ill after being unemployed, you may not be entitled to continuing benefits until you are physically able to accept suitable employment. To be eligible for unemployment benefits, you must be ready to work, willing to work, capable of working, or actively seeking work. Generally, actively seeking work means applying for at least 2 jobs a week. You must also not refuse offers of suitable employment.

If you plan to appeal, it is important that you continue to seek work and continue filing your weekly claims to maintain your eligibility for benefits should you eventually prevail in your appeal. Many people are denied benefits for periods in which they do not make reasonable efforts to seek work or fill out the work search reports.

If you are ill and are unable to seek work or fill out the forms, contact the claims office where you filed and tell them of your circumstances. Otherwise, you may jeopardize your benefits.

Extended and Supplemental (Extra) Benefits

Prior to the expiration of your benefits period, usually 26 weeks, you should inquire about and consider requesting an application for extended or supplemental benefits, usually 13 weeks.

PLEASE NOTE: Laws are subject to change. Information contained in this pamphlet is based on laws in effect at date of publication. 06/09

NEVADA LEGAL SERVICES

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RENO OFFICE

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CARSON CITY OFFICE

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UNEMPLOYMENT COMPENSATION



This informational pamphlet will
provided you with the most often
asked questions about
Unemployment Compensation!



If you are unemployed, you may be entitled to benefits (a weekly check) to help you get by until you get a new job.

If you are terminated, laid off, or quit, you should immediately apply for unemployment compensation benefits.

You can apply for unemployment benefits at your local Office of the Nevada Department of Employment, Training, and Rehabilitation (DETR), a Job Connect office, call DETR, or apply online.

How much money will I receive?

Based upon your initial claim for benefits, DETR's Employment Security Division (ESD) will contact your previous employers to determine what amount of money, if any, you are entitled to receive.

The amount of money you may get each week is based on a complicated formula. It is roughly half of the salary or wages you were paid each week during your best 3 month earning periods in the past year. However, your check cannot be lower than \$16 or higher than the maximum set by state law. In order to receive benefits, you must first show you are entitled to the benefits.

Who is entitled to benefits?

You may be entitled if:

1. You are an insured worker, i.e., someone who has been paid enough wages (under a formula);
2. You are unemployed;
3. You are registered with the Employment Security Division (ESD);
4. You file a claim;
5. You are able to work, and are actively seeking work;
6. You are not disqualified.

There are many reasons why you may be disqualified from receiving benefits. By far the most common reasons that applicants are disqualified include "leaving work voluntarily without good cause", "discharge for misconduct connected with the work," and misrepresentation in filing for or claiming benefits.

However, you may still qualify for benefits even if you quit or were fired!

If you quit, you may qualify if you have quit with good cause. In Nevada, few court decisions have defined good cause.

- If you feel that a reasonable person would have quit under your circumstances, you may have a good argument that you should receive benefits. Good cause can include both personal reasons for quitting such as poor health and job related reasons such as illegal or unfair treatment on the job. However, in order to qualify for benefits, you must have tried to work things out with your employer and quit only after efforts to resolve the problem have failed.

You may also be disqualified from receiving benefits if you were fired from your employment for reasons amounting to misconduct in connection with your employment. If you are fired for any reason other than misconduct you may qualify.

- To be disqualified the employer must generally show that the claimed misconduct was done on purpose or with a serious degree of negligence or carelessness, what you did was wrongful, and your conduct resulted in a violation of a clear and reasonable rule of your employer.
- In contrast, mere inefficiency or failure of performance because of inability or incapacity, ordinary negligence in isolated instances, or good faith errors in judgment or discretion are excluded in the definition of misconduct.

Initial Application Decision

A claims adjudicator will make a decision on the initial application. You will either be granted benefits or you will be denied benefits. If you are denied, you should be informed of the reason or reasons for your denial. If you disagree with the decision, you must appeal by requesting a hearing with ESD within 11 days from the date of the decision denying your claim for benefits.

Appeals Referee Hearing

At a hearing your former employer will have to prove that you were guilty of misconduct or are otherwise disqualified from receiving benefits. If you are denied for quitting without good cause, though, you will need to show that you did have good reason to quit.

Appeal by Employer

Even if the agency initially determines that you are eligible to receive benefits and you begin receiving checks, the employer also has a right to appeal. An employer whose account is being charged may claim that you do not have the right to receive benefits. The employer may appeal to the Appeals Referee setting forth his or her reasons why you should not be paid.

If an employer does appeal, you can present favorable evidence at the hearing to show that you are entitled to receive benefits.

Appeal to Board of Review

After the Appeals Referee hearing, you will receive a written decision from the Appeals Referee in the mail explaining why you qualify for benefits or not. If your benefits were denied, you may appeal this decision within 11 days by submitting a request for review to ESD's Board of Review at your ESD appeals office.

If you win at the hearing, the employer may also appeal to the Board of Review. You will receive benefits pending the employer's appeal to the Board of Review if you were initially granted benefits and you continue to regularly file your weekly claims.

If either you or the employer appeals to the Board of Review, you will receive a written notice stating whether or not the Board will hear the appeal.

If the Board agrees to hear your appeal, a hearing will be scheduled. The Board does not have to hear every appeal and may decide to decline review or adopt the findings of the Appeals Referee. If the Appeals Referee made a different decision than initially made by ESD's claims adjudicator, the Board of Review must hear the appeal as a matter of right.

After your hearing, the Board of Review, the Board of Review will send you a written decision stating whether your unemployment benefits were awarded or not.

If you lost before the Board of Review or the Board of Review declined to hear your appeal, you may appeal further by filing a Petition for Judicial Review with the District Court within 11 days after the Board of Review decision becomes final. The Board of Review Decision becomes final 11 days after the decision is mailed to you. This means you generally have 22 days from the date the Board of Review decision is mailed to you in order to file a petition seeking review of the decision in District Court.

You must file your appeal with the District Court in the county where you filed your initial claim for benefits. There will be no hearing to take evidence before the District Court. The court will limit its review and generally only determine if DETR/ESD made a mistake in its decision to deny your unemployment benefits. The court may accept written briefs and may hear oral argument as to why DETR/ESD made a mistake in its decision. Representation by an attorney is strongly suggested at this stage.