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CONSUMER LEGAL INFORMATION PAMPHLETS BY THE PENNSYLVANIA BAR ASSOCIATION



Unemployment Compensation

Introduction

Unemployment compensation is insurance that protects you from total income loss if you lose your job through no fault of your own. If you qualify for benefits, you will receive weekly checks and help in locating other employment.

To qualify, you must have worked for an employer who contributed to the Unemployment Compensation Fund, which is administered by the Office of Employment Security of the Pennsylvania Department of Labor and Industry.

In Pennsylvania, employers are required to withhold and submit one-tenth of one percent of an employee's wages ($1 per $1,000 earned) to the Department of Labor and Industry.

As soon as you lose your job or your work hours are decreased, you should contact the nearest Office of Employment Security and file an application for benefits.

Am I Eligible for Compensation?

To be considered eligible for compensation, you must:

- have worked for an employer who contributed to the Unemployment Compensation Fund.
- have earned at least $100 in each of 18 calendar weeks in your base year. "Base year" means the first four of the last five completed calendar quarters prior to the date on which you apply for benefits.
- your highest quarterly wage exceeds $1,688. Highest quarterly wage means the quarterly wage amount in your base year that is the greatest.
- have lost your job through no fault of your own.
- be able to and available for work.
- serve an unpaid period of one week.
- file a claim for benefits at the Unemployment Compensation section of your local Job Service Office. Students enrolled in full-time course work may be considered unavailable for work. However, there are certain training courses approved by the Department of Labor and Industry that may permit a trainee to collect benefits.

Can I Get Partial Benefits?

If your regular work hours are reduced because of lack of work, you may be able to receive partial benefits. You can earn up to 30 percent of the weekly benefit rate without reducing your benefits. This amount is called the Partial Benefit Credit. Any amount you earn over this in any week will be deducted from your weekly benefit rate to determine the partial benefits to which you may be entitled.

It is important that you report all wages paid or payable, regardless of whether these wages exceed the partial benefit credit. If you don't, you may be disqualified from receiving benefits or you may be subject to fines or imprisonment.

How Long Can I Collect Benefits?

Most claimants who remain eligible may receive benefit checks for up to 26 weeks of total unemployment during their Benefit Year, the 52-week period that begins with the date of their application. Some claimants are not entitled to the full 26 weeks of benefits because they did not work enough credit weeks, or weeks in which they earned at least $100, in their base year.

Claimants who have less than 18 credit weeks do not qualify for any benefits. If you have 18 credit weeks, you can receive 18 weeks of benefits. If you have 19 credit weeks, you can receive 19 weeks of benefits, and so on, up to 26 weeks.

There is a federally mandated program that extends unemployment benefits when the percentage of jobless workers covered by unemployment insurance reaches a certain level. The program provides eight or 13 more weeks of benefits for Pennsylvania's unemployed who qualify. You must report to the Office of Employment Security each week to sign up for weekly checks. There are special federal programs in place that permit a qualified individual to receive additional training or benefits.

How Is the Amount Determined?

The general goal is to pay the unemployed person about 50 percent of what he or she earned when employed, up to the maximum allowed by state law. The maximum varies each year, being based on a percentage of the average weekly wages for all workers in the state during the last fiscal year. Allowances for dependents may also be made. A dependent spouse is your lawful husband or wife living in your household. A dependent child is your unmarried child (including illegitimate children), stepchild or adopted child under 18 years old, or a child 18 years or over who is unable to engage in any gainful employment because of a physical or mental handicap. In order to receive dependent's allowances, you must have been providing more than one-half of the cost of support for your dependent(s) at the time of your application for benefits

What Will Disqualify Me?

You may be denied benefits for a number of reasons. Some of the more common ones are:

- quitting your job without a valid reason.
- loss of job due to willful misconduct, such as frequent and unexcused absence or tardiness.
- failure to apply for or accept suitable work.
- unemployment due to participation in a strike.
- inability or unavailability to work.
- refusal to accept an offer of suitable full-time work in order to pursue seasonal or part-time employment.
- receipt of unemployment compensation from another state or from the federal government.

Other conditions may affect the payment and amount of your benefits. You must tell the claims interviewer if you are self-employed, have any type of earnings, are receiving any pensions or annuities including Social Security benefits, are receiving vacation or holiday pay, receiving a back wage award, or are a student or are attending any school or training course.

Can I Get Benefits If I Quit My Job?

If you leave for a necessary and compelling reason, you may be able to collect benefits. Leaving a job for health or psychological reasons will not entitle you to benefits unless you are available and able to work elsewhere. If you are thinking about leaving a job for health reasons, you should talk about your health problem to your employer and explain your inability to perform your regularly assigned duties. You will not be entitled to benefits if you leave your job because of dissatisfaction with work, inability to get along with supervisors or fellow employees, or desire to seek a better paying or different job.

Can I Collect If I Am Pregnant?

Benefits are payable if the pregnant woman does not voluntarily leave her job when she is able to work and suitable work is available. If an employer discharges an employee because of pregnancy, the worker is entitled to benefits if she is otherwise eligible. Benefits may continue after the birth if the worker is able and available to work and otherwise eligible for benefits.

Are Benefits Taxable?

All unemployment compensation benefits received have to be reported on your federal income tax return. These may be taxable if your adjusted gross income reaches a certain level. Instructions and income levels are explained in the tax return booklet.

Are There Penalties for Fraud?

Anyone who makes false statements or who knowingly withholds information to illegally obtain benefits can be prosecuted. If convicted, the person must repay the full amount with interest and, if repayment is not made, a lien may be filed against the person to recover the money. A fine of up to $1,000 and 30 days in jail for each check illegally obtained can be imposed. The individual is then ineligible to receive unemployment compensation for one year following the date of the conviction.

What Are My Rights?

If you and your employer disagree on the reason you left your job or on other matters affecting your benefits, an interview will be conducted where you will be able to tell your side of the story.
It is required that you receive an Advance Notice form if you are in danger of losing your benefits. At that time, you will have the right to show evidence to disprove any statements being considered as a basis for stopping your benefits. Once you are eligible for benefits, you will continue to receive them during your period of eligibility unless an official decision is made to stop them. If your benefits are stopped, you may appeal the decision.
If you feel that the Pennsylvania Office of Employment Security was wrong in determining your eligibility for benefits, made a mistake in calculating the amount, or has stopped your benefits improperly, you may appeal the decision within 15 days from the date the ruling is handed or mailed to you. A hearing will be held before an Unemployment Compensation Referee.

How Do I File an Appeal?

Complete an appeal form and file it with the Office of Unemployment within 15 days. You will then be notified of the day, time and place of your hearing before the referee. After the hearing, a written decision will be issued.
If you are not satisfied with the referee's decision, it may be appealed within 15 days of the date of the decision to the Pennsylvania Unemployment Compensation Board of Review. Their decision becomes final on the day it was mailed unless an appeal to the Commonwealth Court is filed within 30 days after the mailing date of the Board's decision. If requested, reconsideration may be granted for good cause.
Your employer is entitled to the same right of appeal and/or reconsideration if the employer disagrees with a determination of eligibility.

When Should I Seek Legal Advice?

If you are denied benefits and file an appeal, you should discuss your case with an attorney before you have your first hearing. Your future appeals may be affected if you do not have legal counsel. This is equally important for employers.

How Can I Locate an Attorney?

Visit the Pennsylvania Bar Association Lawyer Referral Service online at www.pabar.org. Most counties have this same service at the local level.

Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.