

**Your Right to**

*Unemployment  
Benefits* **in New Jersey**



*A guide to the laws  
and the steps  
a worker must follow  
to get unemployment benefits  
in New Jersey*

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# Preface

Legal Services of New Jersey (LSNJ) coordinates the statewide Legal Services system in New Jersey, providing free legal assistance to low-income people in civil matters. Part of Legal Services' mission is to make people more aware of their legal rights. Awareness allows people to resolve some problems on their own, without the need for lawyers. It also can help minimize the negative effects of legal problems. Informed people also are able to make better use of lawyers when they are needed.

## About This Handbook

This handbook is written to help workers get all of the unemployment benefits to which they are entitled. We use the word "you" to mean workers. The handbook first discusses who is eligible for unemployment benefits. Then it covers how to apply for benefits and how much money you should get. The last section covers Appeal Tribunal hearings (unemployment appeal hearings).

## Please Note—A Word of Caution

The laws mentioned in this handbook were correct at the time of printing, but laws frequently change, and some may be different by the time you read this. You *should always check* to be sure that any law or principle mentioned in this handbook is current before relying on it. This handbook gives general information about the law. It does not provide specific advice about a particular legal problem that you may have, and it is not a substitute for seeing a lawyer at times when you need one. If you encounter a problem, or are in doubt as to whether you need a lawyer, talk to one.

## If You Need a Lawyer

You can contact the toll-free statewide legal hotline, LSNJ-LAW™, at 1-888-LSNJ-LAW (1-888-576-5529). The hotline provides information, advice, and referral to low-income residents of New Jersey who have civil legal problems.

Some county Legal Services offices provide free help to low-income people with unemployment benefits problems. You may wish to check directly with the Legal Services office in your area. The Legal Services offices in New Jersey are listed on the inside front cover of this handbook.

If you are not eligible for Legal Services or if the Legal Services office in your area does not handle unemployment cases, you may want to talk to your union representative or a private attorney. If you need to find a lawyer, you can call your county bar association and ask to be referred to an attorney who does unemployment compensation.

After reading this handbook, you may choose to represent yourself. Many people successfully represent themselves in unemployment hearings every day. Whether you talk to a lawyer or represent yourself, this handbook should help you understand unemployment benefits and procedures.

## How to Use This Handbook

There are examples throughout this handbook to give you an idea of how unemployment law works. Each situation is different. If you think you are right, you should proceed to apply, or to challenge (appeal) an unfavorable decision.

This handbook has a lot of endnotes that look like the “1” at the end of this sentence.<sup>1</sup> The endnotes are listed at the end of the handbook. Some endnotes refer to the laws, regulations, court cases, or manuals that support the statements in the handbook. These legal sources are discussed in more detail on page 59. Other endnotes give more detailed explanations of the material. Do not, however, feel that you have to read them. They are there only if you want more information.

In Chapter 6 at the end of this handbook, we discuss laws that your employer may have broken, such as laws against discrimination, laws protecting workers’ health and safety, or laws allowing workers to take leaves of absence from work to care for certain family members. These laws are mentioned only briefly since this handbook is about unemployment benefits, not about all areas of employment law. However, if you think your employer has acted unlawfully, you should get more information about those laws. Talk to a lawyer, or to your union representative. You must act quickly if you decide to take action since many employment laws have very short deadlines. You may need to file a claim immediately in order to preserve your rights.

## Acknowledgments

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## Comments or Suggestions

We hope that this handbook will be helpful to you. Please let us know if you have comments or suggestions that we might use in future editions. You can write to us or e-mail us at:

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# Introduction

Unemployment benefits help support you and your family while you look for new work.<sup>2</sup> They are “designed to serve the public interest,” and the laws covering unemployment benefits should be read “liberally” in favor of the worker.<sup>3</sup>

Most workers are covered by the unemployment program. If you were fired for no reason or for a trivial reason, you probably can get benefits. If you were fired for doing something intentionally wrong (misconduct), you probably can still get benefits (after a waiting period of six weeks), unless you were fired for gross misconduct. If you quit for reasons related to your work, you also may get benefits. This handbook explains the laws and the steps a worker needs to follow to get benefits.

The money for unemployment benefits comes from a fund into which you and your employer have paid, which is run by the State of New Jersey.<sup>4</sup> This fund is insurance for when you are out of work. By knowing about unemployment benefits, you can collect all of the money to which you are entitled.

## *Chapter 1*

# Who Is Eligible for Unemployment Benefits?

The Unemployment Division of the New Jersey Department of Labor is the agency that first decides whether you are eligible for unemployment benefits. (This handbook sometimes just says “Department” to mean the Unemployment Division of the New Jersey Department of Labor.) You can apply for unemployment benefits at any of the local unemployment offices, or by telephone. The offices are listed in the blue government pages in your local phone book and on page 60 of this handbook. Many people reading this handbook have already applied for benefits and have been turned down. If you haven’t applied yet, you should review parts of this handbook before you file your claim for unemployment benefits. That way, you can make sure the claims examiner at your local unemployment office decides your claim correctly.

In the sections below, we’ll talk about whether you are eligible for benefits. We’ll then talk about what you need to do to stay eligible to collect unemployment, including reporting requirements and other issues that may affect your eligibility to collect unemployment payments.

## **Did you work enough before you became unemployed?**

### **Four ways to count your work**

Workers have to put enough time and money into the system to get something out. There are three rules to look at (sometimes called “tests” for eligibility) to see if you have worked enough. You only need to have completed enough work to meet one of these tests—you don’t have to meet them all. You must have (1) worked for at least 20 “base weeks” during a 52-week “base period,” or (2) made at least a certain amount of money (under one of two “alternative earnings” tests), or (3) worked at least 770 hours doing agricultural work during your base period.<sup>5</sup> For a week of work to qualify as a base week, you must earn a minimum amount of pay. The 52-week base period is the first four of the last five full calendar quarters before the calendar quarter in which you file your claim. As we explain below, each year the Department of Labor sets the amount of money you must have earned to be eligible for unemployment benefits.

### ***Worked for 20 or more base weeks***

If you worked at least 20 base weeks during your 52-week base period, you may qualify for unemployment benefits. If you didn’t work 20 base weeks, look at the alternative earnings tests below.<sup>6</sup>

The pay you have to earn to qualify for a base week of work changes and is adjusted each year by the Department of Labor. For example, in 2000, a worker had to make \$152 per week for the week to count. In 2001, a worker must make \$158 for the week to count.<sup>7</sup> The base week in future years may vary from the amounts listed in this book.

### **Alternative earnings test**

For the first alternative earnings test, you must have earned a certain amount of wages during your base period. This amount is calculated in New Jersey each year by multiplying 12 times the average weekly wage of workers. For benefit years starting on or after January 1, 2001, the worker must have made \$9,500 during his or her base period.<sup>8</sup>

### **Second alternative earnings test**

If you do not qualify under either of the above tests, you must be considered under a second alternative earnings amount. This amount is calculated by multiplying the current minimum wage by 1,000. For benefit years starting in 2000, the worker must have made \$5,200 in his or her base period.

### **Worked 770 hours in agriculture**

Farm workers who have worked at least 770 hours doing agricultural work during their base periods will have worked enough to get unemployment benefits under this rule.<sup>9</sup> You must have worked at least one base week.

If you haven't worked enough to meet any of these four tests, you won't be eligible for unemployment benefits until you do. Work for most employers counts, but there are exceptions. For example, independent contractors, self-employed individuals, some nonprofit agencies, and employers who pay less than \$1,000 per year in wages to their employees are not covered by the unemployment program.<sup>10</sup> If you work in an unusual job such as home-to-home sales, for a religious organization, or for a local, state, or federal government agency and have questions about whether you are covered, check with your local unemployment office. Most local, state, and federal agencies provide unemployment benefits under their own programs.

## **Calculating your base period**

Remember, the base period is the first four of the last five full calendar quarters before the calendar quarter in which you file your claim.<sup>11</sup> The timing of when you file your claim for benefits can make a difference if you haven't been working steadily for the last 18 months. When you file could affect how much money you get each week, or whether you are eligible at all.

Your employer is responsible for reporting your earnings each quarter to the Department of Labor. However, if you want to make sure your earnings record is correct, you'll need to know how much time you worked or how much money you made during this base period in order to know whether you meet test one (working 20 weeks), test two (making enough money), or test three (770 hours in agriculture). Pay

stubs and a calendar will help. If you worked enough during your base period and are otherwise eligible, you should get unemployment benefits.

If your base year does not satisfy any of the earnings tests, you can slide the year forward by four or eight months under the alternative base years. Therefore, your base year could also be the last four complete calendar quarters immediately before you file or the last three quarters plus the part of the current quarter in which you filed.<sup>12</sup>

After you apply for unemployment benefits, you will get a “notice to claimant of benefit determination.” This form should show your earnings from all of your employers during the four calendar quarters in your base year, and your benefit rate. Check to make sure that this notice is correct and that all of the money you made is counted. It is important to have all of the money counted since the benefit rate is based on your past earnings. The more money you made, the higher your benefit rate will be, up to an annual maximum benefit rate, which is set by the state each year.

Often, there are problems in giving workers credit for work they have done. Sometimes employers do not send in the money they have deducted from their workers’ paychecks to the Department. Sometimes workers use incorrect Social Security numbers and have trouble proving they were the people actually working. Some employers pay workers in cash and do not keep records. You may have difficulty proving that you worked the amount of time you say you worked. Even if you agreed to be paid in cash and no taxes were taken out, you may still be eligible for unemployment benefits. There are things you can do if this happens to you.

If your notice to claimant of benefit determination form does not show all of your earnings in your base year, then immediately ask for a meeting with a claims investigator to show that, in fact, you earned enough additional wages that should count in calculating your unemployment benefits. You must meet with a claims investigator immediately because you only have 10 days from the date listed on the notice to appeal. The local unemployment office should send a verification of earnings letter to the employer to make sure your earnings are correct. If the employer does not respond to the letter within two weeks, the unemployment office should accept the information you have given and process your claim.

You have a right to get your unemployment benefits when they are due.<sup>13</sup> In 1971, the United States Supreme Court told states that unemployment benefits are supposed to take the place of unemployed workers’ regular paychecks. That means that benefits are due as soon after workers lose their jobs and apply for benefits as is reasonably possible. So, if you ask for a hearing to prove that you have worked enough time in your base period to qualify for unemployment benefits, that hearing should be scheduled soon enough to get you your benefits as soon as reasonably possible.<sup>14</sup>

## Does the reason you left your job affect your eligibility for unemployment benefits?

The reason you left your job does make a difference as to whether you can get unemployment benefits. For example, you may be disqualified for benefits if you quit work without a good reason related to your work, or if you were fired for committing a crime. Your benefits may also be delayed for a period of time if you were fired for committing misconduct, if you refused suitable work without good cause, or if you went out on strike.

If the Department of Labor denies you benefits, it will tell you why in the notice of determination it sends to you. You have a right to challenge this determination if you think the decision is wrong.

### Quitting work

If you quit work, your reasons for quitting may affect whether you can get unemployment benefits. If you quit without a good reason related to your work, you may be disqualified for unemployment benefits.<sup>15</sup> To get unemployment benefits after you quit, you have to show that you had a good reason for quitting and that the reason was related to your job.

This section describes some common situations in which people quit their jobs. The Department often decides that in some work situations, workers may have good, work-related reasons for quitting, such as unsafe working conditions or unpaid wages. In other cases, workers' reasons for quitting are not considered to be good, work-related reasons, and those people are determined to be ineligible for unemployment benefits.

### Domestic violence

If you are a victim of domestic violence and you quit work or are discharged because of circumstances related to the abuse, you may be eligible for benefits.<sup>16</sup> These circumstances may include your relocating to escape your abuser, leaving work because of constant harassment at work by the abuser, and other situations. To qualify under this provision, you must show any of the following documentation:

- A restraining order or other court order preventing the abuser from disturbing you.
- A police record documenting domestic violence.
- Documentation that the abuser was convicted of a crime constituting domestic violence.
- Medical documentation of domestic violence.
- Certification from a Domestic Violence Specialist (person who is certified by the New Jersey Association of Domestic Violence Professionals) or director of a domestic violence prevention agency (a county organization providing services to victims through the Division of Youth and Family Services) that you are a victim.

- Other documentation from a social worker, clergy member, shelter worker, or other professional who helped you deal with the abuse.

**Example:** In *Pagan v. Board of Review*,<sup>17</sup> Ms. Pagan was the victim of constant harassment and abuse by her husband. The abuse caused Ms. Pagan great stress and fear, which affected her ability to work. Ms. Pagan’s husband also made work difficult by constantly calling her at work. Finally, she voluntarily left her job in order to move away from her husband. Ms. Pagan was disqualified from unemployment benefits because the law at that time did not authorize benefits for victims of domestic violence. Under current law, she would be eligible for benefits.

### **Unsafe working conditions**

Conditions that are unsafe or unhealthful can be considered good, work-related reasons to quit a job.<sup>18</sup>

You should note that unsafe working conditions may violate state and federal health and safety laws such as the state Worker Health and Safety Act,<sup>19</sup> which requires all employers to provide a place of employment that is “reasonably safe and healthful to employees,”<sup>20</sup> and the federal Occupational Safety and Health Act.<sup>21</sup> If you feel that your working conditions were unsafe, you may also want to contact one of the state or federal health and safety offices in your area.

**Example:** Kenji worked as an electric machine operator in a building where the roof leaked, leaving pools of water on the floor. Kenji told the manager that he thought it was unsafe to operate the electric machine while standing in water. The boss told him that his job was to operate the machine, and if he didn’t like it he could quit. Kenji had a good, work-related reason for quitting, since the conditions at his workplace were unsafe. He should get unemployment benefits if he has worked enough during his base period.

### **Personal health reasons**

If you are susceptible to a condition on your job that makes you no longer able to work there, that can be a good, work-related reason for quitting.<sup>22</sup> Personal health problems aggravated by the job are common causes for workers to leave their jobs. Health problems also can be difficult to prove.

If you leave your job due to health reasons, you should get a letter from your doctor or other health professional saying that your work made your medical condition worse and caused you to leave your job. The letter should describe your health problem and say that the doctor recommended that you leave your job for medical reasons. In addition to the doctor’s letter, it may also be helpful if you have witnesses to describe your medical reactions to the conditions at work.

You should also notify your employer of the condition and request leave time as early as you can. Taking these steps to preserve your employment may support good cause to quit—even for non-work-related injuries.

**Note:** If you have a *work-related* medical condition or injury, you may file a workers' compensation claim that would entitle you to temporary disability benefits, medical treatment and related expenses, and vocational rehabilitation (job retraining) services. You have only two years from the date of the injury or the date when you knew about your condition, or reasonably should have known that the injury was work-related to file a workers' compensation claim.<sup>23</sup> If you think you might have a workers' compensation claim, talk to your union representative or a workers' compensation applicants' attorney right away.

**Example:** Raquel's job duties required her to work 60 to 80 hours a week. As a result, she was unable to get treatment for her fatigue, nutritional problems, and mild depression, so she quit. Raquel should be eligible for unemployment benefits, since she had a good, work-related reason for quitting.<sup>24</sup> But remember, documents from your doctor or other health professional are *very* important, as the next example shows.

**Example:** Vu had a serious back problem before he began work at a factory job. He quit because, he said, the factory work made his back worse. The only evidence of his condition was a note from his doctor saying that his work "may" have made his back condition worse. Vu was not allowed benefits since he did not convince the Department that his back pain was a "work-related" reason for quitting.<sup>25</sup>

### **Discrimination**

Various laws make it unlawful to discriminate on the basis of race, sex, pregnancy, religion, national origin, age (over 40), disability, marital status, and sexual orientation. If someone at work is discriminating against you, that can be a good, work-related reason for quitting. Write down any discriminatory actions or comments, and keep track of who witnessed them. In the cases of disability and religion, the law may require the employer to take extra steps to accommodate you or to help you to do your job.

**Note:** Discrimination in hiring, promotions, discharge, and other terms and conditions of employment for any of the prohibited reasons listed in the paragraph above may violate New Jersey's Law Against Discrimination,<sup>26</sup> Title VII of the federal Civil Rights Act,<sup>27</sup> the Age Discrimination in Employment Act,<sup>28</sup> or other federal or state laws. Most laws require you to file *within 180 days* of the last discriminatory act. You may file a complaint with the State Division on Civil Rights or the federal Equal Employment Opportunities Commission (EEOC) or both at the state office.

### **Sexual harassment**

Sexual harassment is a form of sex discrimination and may be good cause for quitting.<sup>29</sup> If a co-worker is harassing you, tell your supervisor. Either do this in writing and keep a copy of your letter, or have a witness when you tell the supervisor. That way you can prove that the supervisor knew of the problem. If your supervisor is

harassing you, that is unlawful and you should report it to someone above your supervisor. If management is aware that you are being sexually harassed and does nothing about it, that should be good cause to quit, as well as grounds to sue the employer.

### **Personality conflicts**

Usually, personality conflicts that don't involve unlawful discrimination are not good cause to quit. Workers are expected to do their best to work together. However, when an employee is subjected to intentional harassment,<sup>30</sup> vulgar, abusive language, or threatened violence,<sup>31</sup> working conditions can be so intolerable so as to be good cause to quit.

### **Employer doesn't pay you or pays too little**

You may have a good, work-related reason to quit if your employer refuses to pay you for work you have done. Get a witness or any documentation that you have to help prove what happened. You may also have a good, work-related reason for quitting if your employer tells you that your salary will be significantly cut for doing the same work.<sup>32</sup>

If you are making less than minimum wage, you may also have a good, work-related reason to quit.<sup>33</sup> However, failure of an employer to give you a raise is not a good reason for quitting unless the employer was required to give it to you.<sup>34</sup> Keep pay stubs, time records, or other documents that show how much you were paid for the time you worked. Take them with you when you apply for unemployment benefits.

**Note:** Paying less than minimum wage, or not paying time and a half for overtime work, or not paying, may be violations of the New Jersey Wage Pay Law<sup>35</sup> and the federal Fair Labor Standards Act.<sup>36</sup> You can file a complaint within two years of the unlawful act (or within three years under federal law) if the violation was "willful" (on purpose). You can also sue your employer to get the money you are owed in your county's Small Claims Court. You should also file a complaint with the state or federal Department of Labor, Division of Wage & Hour Compliance.

### **Employer makes big changes in your job**

If your employer makes major changes in your job, and you quit because of them, the Department may decide that the changes are a good reason to quit. Big changes in your job duties, hours, pay, or benefits could all be good reasons for quitting.

**Example:** Lauria worked as a secretary/receptionist for a landscaping company for two years. One day, her boss gave her a shovel and told her that her job had changed. Her job duties then involved carrying and planting trees and shrubs. She quit. Lauria had a good, work-related reason for quitting since her employer made big changes in her work.

**Example:** Kai's employer decided to close his store a half hour earlier every weekday, cutting her hours from 40 to 37½ per week. This

probably is not a good, work-related reason to quit, since the change is not major. Unless there were other agreements or conditions, Kai would probably not be eligible for unemployment benefits if she quit only for this reason.

### ***Your job duties violate your religion***

If doing your job would require you to violate your sincerely held religious beliefs, then quitting may be for a good, work-related reason.<sup>37</sup>

**Example:** Tyler’s religion prohibits him from working on Saturdays, his Sabbath. When he was transferred to a new shift that worked on Saturdays, he quit. Tyler was eligible for unemployment benefits since his work required that he violate his sincere religious beliefs.

### ***Personal reasons***

In some cases, a worker may leave for good reasons, but those reasons may not be related to work. Such workers are said to have left for personal reasons. Leaving for personal reasons can disqualify you for unemployment benefits. Here are some examples of personal reasons not related to work:

- Quitting to take a higher paying job.
- Quitting to follow a family member who is moving.
- Quitting because your babysitter leaves and you have no other child care.
- Quitting because you lost your ride to work and are unable to get to your job.<sup>38</sup>
- Quitting to go back to school.

### ***Leaving work temporarily***

You may have left work temporarily because of anger or frustration, or because you had just had enough. Sometimes this is called “leaving in a huff.” The question is whether you intended (meant) to quit, or were just fed up at that particular moment but intended to return to work. The courts have recognized that sometimes employees leave work temporarily because of some passing physical or mental irritation and don’t mean to quit permanently. If you said you were quitting in a moment of upset and soon after realized you wanted to remain employed, you should try to get your job back. If the employer refuses and you have to apply for unemployment, you shouldn’t necessarily be disqualified for benefits.<sup>39</sup>

The unemployment office will look at each case separately because every work situation and worker is different. It will expect you to act reasonably to keep your job, but not to put up with unreasonable working conditions. Your reasons for leaving must be “real, substantial and reasonable,” not “imaginary, trifling and whimsical.”<sup>40</sup> You will have to tell the unemployment office about your work situation, and convince the person considering your arguments that you acted reasonably in leaving your job.

If you quit for a good, work-related reason, it is important to show the unemployment office that you tried to work out the problem before you quit. If you quit because of harassment, did you first complain to a supervisor to try to get the problem solved? If your working conditions were unsafe, did you let management know so they could try to correct the situation? If you didn't try to work out the problem, can you show that it would have been impossible to work it out? If it would have been pointless to try to work out the problem, how can you show this to the unemployment office?

It is often difficult to prove what happened at work. As soon as you think there may be a problem, *take notes*. Write down dates, what happened, who saw what happened, who said or did what, and what happened next. If you have already left your job, sit down now and write down what you remember happened, being as specific as possible, before you forget. You may be able to get witnesses to come to your hearing, so it is important to keep track of who saw, or heard, or knew what happened.

### **Temporary help agencies**

If you rejected work from a temporary help agency, you may be disqualified from benefits for quitting. This depends on how much time passed since your last assignment from the agency ended. You may be disqualified if offered the new assignment within one business day, or another time agreed to with the agency, and if the new job was to start within four weeks of ending the last job.

## **Being discharged (fired) from work**

Many people think that you can't get unemployment if you are fired. That's not true. Often, when you are fired you *can* get unemployment. It depends on the situation.

### **Discharges when your job ends**

Some examples of discharges when your job is over are:

- Fired because the plant closed.
- Fired because the employer went out of business.
- Fired because the company moved out of state.
- Fired because the company laid workers off.

Workers in these situations should be eligible for unemployment benefits, assuming they meet other requirements.

### **Forcing your employer to fire you**

If you force your employer to fire you, the Department may disqualify you for unemployment just as if you quit your work without a good, work-related reason. You will be disqualified for unemployment benefits until you re-qualify (become eligible again) through new work. You must be reemployed for four weeks and earn at least six times your weekly benefit rate and again become unemployed, through no fault of your own, in order to get benefits in the future, just as though you quit without a good, work-related reason.<sup>41</sup>

### **Gross misconduct**

Those who are fired for “gross” (criminal) misconduct may be disqualified for benefits. If you are fired for committing an act in connection with your work that is punishable as a crime, that may be considered gross misconduct, and you may be disqualified for unemployment benefits.<sup>42</sup> The employer, not you, has the burden to prove either misconduct or gross misconduct, but can show gross misconduct even though you have not been convicted in criminal court.

Some examples of gross misconduct are:

- Stealing at work.
- Hitting or intentionally injuring other workers.
- Intentionally destroying property at work (if not major, it may be only simple misconduct).
- Any crime punishable as a first, second, third, or fourth degree crime in New Jersey.

Being fired for gross misconduct connected with your work disqualifies you for unemployment benefits. Like quitting without good cause related to your work or forcing your employer to fire you, you won’t get unemployment benefits until you get a new job, are reemployed for four weeks, earn at least six times your weekly benefit rate, and again become unemployed through no fault of your own.<sup>43</sup> However, you will *not* get credit for wages earned from the employer where the gross misconduct occurred.

### **Misconduct disqualification**

You may still get unemployment benefits after being fired for misconduct that does not amount to a crime, but you may have to wait a period of time before getting any checks. This wait is called a misconduct disqualification or “misconduct penalty.” Those who are fired for misconduct that does not amount to a crime are eligible for benefits. However, their benefits are delayed for the first six weeks of unemployment as a penalty for the misconduct, beginning with the week in which the discharge for misconduct occurred.

New Jersey law defines misconduct as follows:

[M]isconduct must be an act of wanton or willful disregard of the employer’s interest, a deliberate violation of the employer’s rules, a disregard of standards of behavior which the employer has the right to expect of his employee, or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or evil design, or show an intentional and substantial disregard of the employer’s interest or of the employee’s duties and obligations to the employer.<sup>44</sup>

If you do something by accident or mistake, that’s not usually misconduct.<sup>45</sup> While you may get fired, you should be able to get all of your unemployment benefits without a six-week penalty.

**Example:** David forgot to close the back of the truck he drove because he was worried about his wife, who was in the hospital. When he went up a hill, the back opened. The vegetables and fruits he was supposed to deliver fell out and were ruined. Even though this was the first time this had happened, David was fired. This would not be misconduct, since David's forgetting to close the back of the truck was not "willfully malicious"; it was a simple mistake.

**Example:** Mona, a waitress, was mad at her boss since she thought he treated her unfairly. When he assigned her to work two weekends in a row, she walked up to him and threw hot coffee in his face. Mona was fired. The six-week penalty would probably be applied, since Mona's conduct was improper, connected with her work, "willfully malicious," within Mona's control, and an intentional breach of her obligations toward her boss. Thus, it meets the definition of misconduct. It may even constitute gross misconduct based on criminal assault.

If an act of misconduct is committed, but is not *connected* with your job, then the Department of Labor cannot apply a six-week penalty. Sometimes it is hard to say what is "connected" with your work. Generally, however, it can include acts committed off site or after hours if the act adversely affects the employer or the individual's ability to perform his/her job duties.<sup>46</sup> If the actions do not fit into this definition, the six-week penalty should not apply, and you should get all of your benefits. (There is an exception for police officers concerning misconduct: what they do is almost always connected with their work, even when they're off duty, because of the role of police in society to uphold the law.<sup>47</sup>)

Here are some common problems involving misconduct and how the Department has viewed them:

**Absence from work.** "Willful absenteeism" constitutes misconduct, according to the Department. So does "repeated absence without notice [without telling the employer]." But the Department has found that not to be misconduct if the worker:

- has a good reason for failing to tell the employer why he is going to be absent, or
- had a good reason and told his employer that he was unable to come to work, or was repeatedly absent because the worker had to care for an ill child.

**Tardiness.** Repeated, unreasonable, and unexplained tardiness may be misconduct; accidental or unintentional tardiness is not.<sup>48</sup>

**Dishonesty.** Intentionally taking the employer's money or property is misconduct. However, a shortage of money not occasioned by intentional wrongdoing is not necessarily considered misconduct.

**Insubordination.** According to the Department of Labor, a person is expected to carry out reasonable instructions. However, such instructions must be in connection with your work, a reasonable requirement of your employment, not dangerous to your health, and not in violation of existing laws, morals, or customs. For example, an aged, handicapped employee who is fired for refusing to perform strenuous work or to do outside work that is not part of his regular duties should not get a misconduct penalty.

**Swearing or violent language.** According to the Department, the use of profane, violent, vulgar, or threatening language may constitute misconduct. However, to constitute misconduct it must go beyond the ordinary reactions of a reasonable person.

**Violation of company rules.** Violating a company rule may be misconduct. The Department will consider, among other things, whether the employee violated a reasonable rule of the employer which the individual knew or should have known was in effect.

**Using drugs on the job.** It will be hard to fight a misconduct penalty for using illegal drugs on the job. If you were fired for using illegal drugs on the job, it is probably a good idea to see a lawyer. A failed or refused drug test constitutes misconduct if the drug policy was written and given to employees. This may also constitute gross misconduct since it involves criminal law.

### **Quit or discharge: when it is not clear**

As we've seen, whether you were fired or you quit can make a difference in whether you get unemployment benefits. If you were really fired, but the Department tries to say it was a quit, you can still be disqualified. For example, if you were fired for losing your driver's license and you need the license to do your job, the Department may try to say your termination was a voluntary quit because it was without cause attributable to the work.<sup>49</sup>

Sometimes it is unclear whether a worker quit or was fired. Your intentions or plans are what matter in deciding whether you quit. The requirement is that you must take steps to protect your job. If you didn't intend to quit but your employer refuses to take you back, then the Department may decide that you were fired and did not quit.<sup>50</sup> If you are otherwise eligible, you should get benefits. Here are some common situations where a question comes up about whether the worker quit or was discharged.

#### **Absence from work**

Problems often come up when an employee returns to work after being absent. The Department considers a person to have abandoned a job if the person is "absent from work for five or more consecutive work days and ... without cause fails to notify the employer of the reasons for his or her absence...."<sup>51</sup>

**Example:** Linda gets sick. She doesn't call her employer every day she's out. Linda thinks her boss knows that she will come back to work when she's well. The employer thinks that Linda quit, and hires someone else for her job. Even if Linda didn't *intend* (plan) to quit, her failure to stay in contact with her employer may make her ineligible for unemployment benefits.

**Example:** Victor asked his supervisor's permission to leave work for two weeks to visit his sick mother. The supervisor never answered Victor, and Victor left. When Victor returned after two weeks, his job was gone.

Did Victor quit or was he fired? His intent is what matters. If Victor knew he would be fired if he left and he left anyway, the Department will likely say he quit and deny him benefits. Victor had a good reason to leave, but the reason was not related to his work, so it wouldn't count to get benefits. But, if Victor thought the supervisor agreed he could go, the Department probably would say Victor had been fired and was eligible for benefits.

Sometimes, similar situations occur when a worker is out on disability or personal leave. If the worker does not return to work on the scheduled date, the employer may think the worker meant to quit. Under the Department's rules, a person can be considered to have quit a job if the person fails to contact the employer within five days after being released to return to work after an approved leave of absence.

### **Transportation problems**

The Department and courts have not been very understanding about workers' transportation problems. Where two employees were fired because they didn't have transportation to work, the Supreme Court of New Jersey considered the termination to be "voluntary" and the lack of transportation not to be "good cause attributable" to work. The two employees were found to be ineligible for unemployment benefits.<sup>52</sup>

If the employer has moved and that is the reason the worker quits, he or she can argue that the reason for quitting was the move, not transportation problems.<sup>53</sup> Courts have allowed workers to refuse a job with their former employer when the employer moves.<sup>54</sup> In such cases, the workers remain "available" for employment (see page 25), and are not rejecting "suitable" work (see page 30).

### **Losing a "prerequisite" of employment**

What if your job has a "prerequisite" (requirement), like a driver's license, nursing license, or other professional license, and you lose the license? If it's "reasonably foreseeable" that your voluntary actions (such as driving while intoxicated) will lead to the loss of your license and thus your job, then even though your employer fires you, the Department will call this a "quit," and you may be disqualified from unemployment benefits.<sup>55</sup>

## When there's more than one reason for leaving work

Sometimes workers leave work for more than one reason. What happens when one reason makes you eligible for unemployment and another reason doesn't? The Department will look at each reason separately. If the Department believes that one reason, by itself, was strong enough to make you leave, the Department will grant benefits. So, if one reason you leave work makes you eligible for benefits, it doesn't matter that you also had another reason for leaving that doesn't make you eligible.

**Example:** Olivia worked on an assembly line. She told her boss that she was underpaid and could make more money at another company. When Olivia applied for a promotion, the boss gave the job to a man, telling Olivia he didn't like women to be supervisors. Olivia quit for two reasons: (1) she thought she was underpaid, and (2) she thought the boss discriminated against her because she is a woman.

Reason one doesn't get her benefits since she quit without a good reason related to the work: she wanted more money. Reason 2 gets her benefits since she had a good reason related to work: the boss discriminated against her.

If reason two was enough by itself to make her quit, Olivia should get benefits. Just because she also thought she was underpaid doesn't mean she disqualified herself from being eligible for unemployment.

## Changing your mind after you have resigned

If you give your employer notice that you are leaving your job and then change your mind, your employer is not automatically obligated to take you back. If the employer holds you to your resignation and you cannot continue to work, the Department will look at all the facts and circumstances to decide whether you should be considered to have quit your job.

However, if you give your employer notice that you are resigning and your employer immediately terminates you, the Department will consider you to have quit on the effective date of the resignation.<sup>56</sup>

## Separation pay that may affect your eligibility for benefits

Your former employer may give you several types of payments at the time that you leave work. Receiving such payments may affect your eligibility for benefits.

For instance, you will not be entitled to unemployment benefits if your former employer issues you *Remuneration in Lieu of Notice*. That type of payment is issued instead of an advance separation notice and is considered to be an extension of employment. Thus, it invalidates your claims for benefits. You may file a new claim after the effective date of separation from your job.

Your eligibility for benefits may also be affected if your employer continues to pay your wages and foregoes the services you normally perform through your date of termination. That type of payment is called *Salary Continuation Through Date of Termination* and may be paid in the pay period cycles or in a lump sum. You are considered to be “employed” during this receipt period and are not eligible for unemployment benefits.

On the other hand, severance pay does not extend your employment period, and it is not a bar to unemployment benefits. Severance pay is a lump sum given by your former employer at the time of separation. It is not given to you in place of notice of separation.

## **Are you eligible for benefits now? Your current search for work**

So far, we have looked at things that happened before you filed your claim for unemployment benefits: whether you worked enough and your reason for leaving. Now we will look at what you have to do to keep yourself eligible for benefits.

Unemployment benefits are supposed to help you and your family until you find new work. To keep getting benefits, you have to keep looking for work. You have to: (1) report to your local unemployment office by telephone or by mail, as instructed, when it tells you to report; (2) be ready, willing, and able to work, and be actively seeking work; and (3) accept suitable work if it is offered to you.<sup>57</sup> If you do not do these things, you can lose your benefits.

Often, questions come up about a particular job or situation during your job search. If you talk to someone in your local office about a question, write down who told you what and when they told you (in case someone else at the Department thinks differently later). If you think that the person you talked to is wrong, ask to speak with a supervisor.

### **Reporting in person to your local One-Stop Career Center**

Your local One-Stop Career Center (OSCC) will tell you when you need to come in for appointments. (See telephone numbers and address list in appendix.) They will also tell you how to fill out and turn in your work search forms or give you instructions as to how to report in person.

When directed, you must report to your OSCC for unemployment or employment services on the day and at the time you are scheduled to do so. There are a number of different reasons for having to report in person to the unemployment office:

- Reemployment orientation
- Claims Examiner interview (If your Claims Examiner interview is scheduled to be conducted by telephone, you must be available at the scheduled time.)
- Eligibility review interview
- Quality control interview

Whenever you miss an appointment to report, it is your responsibility to contact the OSCC as soon as possible in order to protect your benefit rights. Failure to contact the agency as soon as possible after your missed appointment may result in a delay or denial of your benefits.

You may contact the OSCC by telephoning a Reemployment Call Center. If circumstances absolutely prevent you from contacting the agency by telephone, you should mail a letter to the One-Stop Career Center that is processing your unemployment insurance claim. In your letter, explain why you missed your appointment and explain why you could not telephone the Reemployment Call Center. Be sure to include your Social Security number and a daytime telephone number in the letter. Mail the letter as soon as possible after you missed the appointment. Any delay in mailing a letter could result in benefits being further delayed or denied.

### ***Reporting during an appeal***

If you have been denied benefits and file an appeal, to remain eligible, you must continue to seek work and report to the Department on your work search while your appeal is being considered. Even though you are not getting benefits during this time, if the Department later decides that you *are* entitled to benefits, you can only get benefits for the weeks when you reported the results of your work search. Keep reporting during your appeal!

### ***Late reporting***

If you have a good reason (“good cause”) for being unable to report as directed or for reporting late, you can explain your reasons and ask the Department to give you benefits anyway. The Department says good cause means “any situation over which [you] did not have control and which was so compelling as to prevent [you] from reporting as required.”<sup>58</sup> If you were unable to report or reported late, get in touch with the Department of Labor immediately.

## **Being “able and available” for work**

Generally, you must make yourself able and available for work while you collect unemployment.<sup>59</sup> If you do things that would keep you from accepting a job during normal working hours, the Department of Labor may decide that you are not available for work and cut off benefits for the time you are not available for work.

Keep in mind that if you limit the work you will accept, the limitation should be “reasonable,” and there should be enough jobs available so that you’re not limiting yourself out of the job market. You are allowed to limit your work search more when you are first looking for work. But if you do not find a job soon, you will be expected to relax your limitations to make it more likely that you will find work.<sup>60</sup>

### ***Students and training programs***

If you take a course, the Department may think that you are not available for work because of your classes. If you want to enroll in a training program or class to increase

your employment opportunities, ask the Department to approve it *before* you start. The Department is supposed to approve programs that will make you more employable. Then you can continue to get benefits while you study.<sup>61</sup>

People who attend training less than full time do not need to get approval, but they must be available for full-time work. If you do not have approval from the Department for classes you are taking and you are later questioned about your availability for work, the Department will consider the amount of time you spend in class, the flexibility of your class schedule, and whether or not you would give up going to school if you found a job that conflicted with your class schedule.<sup>62</sup>

### **Part-time work**

In some cases, you can limit your search to part-time work and still be considered able and available for work. Looking for only part-time work is okay if you have been working part time during a “substantial” part of your base year, if you have a good reason (“good cause”) for only looking for part-time work, and if there is enough part-time work in your area to “justify” the limitation.<sup>63</sup> You must be available to work enough hours to earn at least what your weekly benefit amount would be.<sup>64</sup>

### **Distance to work**

Generally, you can limit your travel only if there is work available nearby. You are able and available for work if you leave New Jersey to look for work in another state if you would return to New Jersey to accept work here. If your former employer moves and you cannot commute or move nearer, you can still be “available” for work even if you do not accept employment from your former employer.<sup>65</sup>

### **Caring for children**

Generally, the Department views restricting your availability for work because you have to care for children on a regular basis as making you unavailable for work and ineligible for unemployment benefits. However, if your restrictions are reasonable and there are jobs available during the times you could work, then the Department may allow benefits.<sup>66</sup>

### **Sickness or disability**

If you get sick or disabled while you are unemployed, obviously you are not “able and available” for work and would normally be considered ineligible for regular unemployment benefits. However, you might be eligible for other programs that cover those who are sick or disabled and unemployed, such as 4(f) disability during unemployment, temporary disability, and workers’ compensation. Which program covers you depends on when and why you became sick or disabled.

**4(f) disability during unemployment.** If you become sick or disabled while eligible to collect regular unemployment benefits, you may be eligible for special unemployment benefits called 4(f) disability during unemployment (sometimes just called “4(f) benefits,” named after section 4(f) of the unemployment law).<sup>67</sup>

**Example:** Chris was laid off from his machine operator job in January and got unemployment benefits. In February, he fell down the stairs at home and broke his leg. His doctor said that he must stay off the leg completely for one month. Chris got disability during unemployment benefits while he was unable to work. After he could use the leg again, he went back to getting regular unemployment benefits and had to report to the Department that he was able and available to work and looking for work.

You must apply in writing for disability during unemployment benefits within 30 days of the date your disability starts, unless you have a good reason for being unable to apply within 30 days. Include your name, address, Social Security number, and the date you became too sick or disabled to work. You have to be sick or disabled for at least two weeks to qualify for disability during unemployment benefits. To get disability during unemployment benefits you will have to be under the care of a licensed doctor, dentist, optometrist, podiatrist, psychologist, or chiropractor.<sup>68</sup> The application for disability during unemployment is available at your local unemployment office.

If you can, tell the local office about your condition before you stop looking for work. If you stop looking before filing for disability at your local office, you risk being found ineligible for benefits for the time before you filed your disability claim.

**Temporary disability.** If, during or soon after a time when you have a job, you get sick or become temporarily disabled because of something not related to your work, you may be eligible for temporary disability benefits. Temporary disability benefits are meant to help workers through short periods of unemployment caused by short-term disability.<sup>69</sup> Temporary disability benefits can last up to 26 weeks.<sup>70</sup>

Like disability during unemployment, you must be under the care of a licensed doctor, dentist, optometrist, podiatrist, psychologist, or chiropractor to get temporary disability benefits.<sup>71</sup> You must apply for benefits within 30 days *and* your disability must have occurred within 14 days from the time that you were no longer employed. (If you are injured after 14 days have passed since you last worked, you may still qualify for a third program—Disability During Unemployment. Simply ask your local office to apply—you will need a DS-1 form—and meet all the eligibility requirements of the unemployment compensation program except for the ability to work.)

**Example:** Tanya worked as a machine operator. She fell down the stairs at home and broke her leg. Her doctor said she must stay off the leg completely for one month. Tanya got temporary disability benefits while she was out of work for a month.

**Example:** Joe left his construction job because he had the flu. While he was home sick, he broke his leg. His employer said he could not return to work. Because Joe broke his leg within 14 days of his last day of work, he was eligible for temporary disability benefits.

A common problem arises when people getting disability benefits don't keep appointments with their doctors (or other professionals listed above). Often, the Department stops disability benefits because the disabled person appears not to be under professional care. If this happens to you and you are still disabled, ask for a hearing and be prepared to show that you are still disabled, still under care, and that you missed your appointment for reasons other than no longer needing care. If you can't keep an appointment with your doctor, cancel and reschedule to avoid this problem.

You cannot get unemployment benefits or other disability benefits at the same time as temporary disability benefits.<sup>72</sup> You are not eligible for temporary disability benefits if you caused your disability on purpose or you became disabled while committing a crime.<sup>73</sup>

If your disability stops in less than 26 weeks and you have lost your old job, apply for regular unemployment benefits right away. There are provisions to allow you to receive unemployment benefits if you can return to work but your previous job is not available.<sup>74</sup>

**Pregnancy disability.** Pregnancy is generally treated as a disability. If you are unable to work because you are pregnant and under a doctor's care, you should be eligible for temporary disability benefits. If you leave your job because of chemicals or conditions that are dangerous to your unborn child, but you are otherwise able and available to work, you should get unemployment benefits (because you quit for a good reason related to your work), not disability benefits (because you are not disabled). Later in your pregnancy, when you become unable to work because of the pregnancy, you may be eligible for temporary disability benefits. The general eligibility period is four weeks prior to your due date and six weeks after your baby is born, unless your doctor certifies a longer time.

**Workers' compensation.** If your disability is related to your work, file a workers' compensation claim.<sup>75</sup>

*Example:* Rosie operated a punch press. A hand guard was missing from her machine, and her hand got injured in the press. She filed for workers' compensation since her injury occurred at work.

Workers' compensation payments should cover medical costs and pay an amount related to the severity of the injury. If it is unclear whether your disability is related to your work, first apply for temporary disability, then for workers' compensation. That way, your disability claim can be processed quickly, and you can get benefits right away. It can take a long time to get workers' compensation payments. If you get temporary disability benefits and it turns out that your injury is work-related, then the money you get from the state will be subtracted from any workers' compensation money you get later.

We've seen several programs for people who are not able and available to work. Here are some things that affect whether you are able and available to work.

### **Age**

When a worker is able and willing to work, the fact that employers are unwilling to hire him or her because of advanced age does not make the worker unavailable for work. However, if the worker is unable to work *because* of age, then he or she is not "able and available." The Department recognizes that older workers may want to look for the same kinds of work they've done in the past, and it has allowed this in some cases.

### **Immigrants**

For some immigrants to get unemployment benefits, it is not enough just to have left the job for a good, work-related reason and to have worked enough with proper status during the base period. You also must be able and available to work in the future. In 1986, Congress made it unlawful for employers to hire aliens who are not authorized to work in the United States. Therefore, if you are an immigrant who is not legally authorized to work, you cannot be "able and available" to work.<sup>76</sup> As we have seen, if you are not "able and available," you cannot get unemployment benefits.

Some immigrants are automatically permitted to work, without restrictions. This includes lawful permanent residents, temporary residents, those granted suspension of deportation, those granted withholding of deportation, asylees, refugees, and those paroled into the country as refugees.<sup>77</sup> Others must apply to the Immigration and Naturalization Service (INS) for an employment authorization card (also called a "work permit") showing that they can lawfully work. Among those who need to apply to the INS are:

- Applicants for adjustment of status to lawful permanent residence.
- Applicants for suspension of deportation who can establish an economic need to work.
- People who have filed non-frivolous applications for asylum.
- People temporarily paroled into the U.S. for emergent reasons.
- Registry applicants.
- Those with the economic need to work to whom the INS has granted deferred action.
- Certain people granted voluntary departure.
- Others.<sup>78</sup>

Sometimes, the INS takes a long time to issue a work permit. If you have applied for a work permit but have not yet received it, and the Department denies your claim for unemployment benefits, *appeal the decision*. At your hearing, show that you are eligible for work authorization by telling the hearing officer your immigration status and referring to the federal regulation (listed in the endnotes in the previous paragraph) that allows you to work. Because you are eligible for work authorization, you are able and available for work.

Nonimmigrants, such as those here on tourist or student visas, cannot get work authorization and generally cannot get unemployment benefits.

### **Mandatory reemployment services**

All states are legally required to implement reemployment assistance programs to help claimants who are permanently laid off. If you are selected to participate in this mandatory reemployment program, you must report to an orientation session and must participate in the provided services.

### **Accepting “suitable” work**

Workers must accept “suitable” employment. If you refuse suitable work, you cannot get unemployment benefits for four weeks after you refuse the work.<sup>79</sup>

To decide whether a job is suitable, the Department will consider:

- The risk to your health, safety, and morals.
- Your physical fitness and prior training, experience, and prior earnings.
- Your length of unemployment and chances of getting local work in your usual type of work.
- The distance of available work from your residence.

A job is not suitable if it is offered because of a strike or labor dispute; or if the hours, pay, or other conditions are “substantially less favorable” than similar local jobs; or if, as a condition of being employed, you have to join a company union or resign from or refrain from joining a union.<sup>80</sup>

If the Department thinks you have turned down a suitable job without good cause, it will give you a notice saying so. If you got benefits during the four weeks after you turned down a suitable job, the Department will give you a request for refund asking you to pay back the benefits. If you think the job was unsuitable, you can appeal (see page 47 on appeals and page 57 on requests for refunds).

If you do not apply for or take a job, the Department may say that you are “unavailable” for work, rather than saying that you refused a suitable job. As described on page 25, if you are unavailable for work, you cannot get benefits until you become available again, which could be longer than four weeks unless your reason for unavailability changes.

Some common problems involving suitable work are explained below. Remember, we are discussing what may be a good reason to refuse suitable work. There is a difference between what is a good reason to quit a job you have and refusing suitable work. Do not quit your job for reasons that would make it unsuitable if you applied now; the Department may decide that a job is unsuitable but not decide that you have a good, work-related reason to quit a job you already have been doing for some time. The Department expects you to keep your job, even if there are hardships.

### **Changes in working conditions**

If your working conditions change and you quit, two kinds of unemployment problems often come up. First, there is the question about whether you quit for a good, work-related reason. (We discussed that on page 13 in the section on quitting.

*Remember:* If you quit without good cause attributable to the work, you do not get unemployment benefits until you requalify through new work.)

The second problem comes up when your old job is available, and either you do not apply for it or you turn it down. The Department might say that you refused suitable work and disqualify you from benefits for four weeks. Again, if the changes in your job are big ones, the Department is less likely to find your old job to be suitable, and you will avoid the penalty for refusing suitable work. If the changes in your old job are small, you will have a hard time avoiding the penalty for refusal to accept suitable work.

If you were laid off and you are recalled but do not go back, you may be found unavailable for work and refusing suitable work. You will have to show the Department what makes your old job unsuitable now. If you are laid off for a specific period of less than 10 weeks and fail to return, you may be disqualified from benefits for voluntarily leaving work.<sup>81</sup>

### **Trying a new job**

If you try a job for a while and then find out that it is unsuitable, you may be able to quit and still get unemployment benefits, depending on what makes the job unsuitable. The Department will allow you to try a job and quit without risking being disqualified for benefits if the job turns out to be unsuitable for one of the reasons listed on pages 13-18 or for another good reason.<sup>82</sup>

### **Experience, training, and compensation**

Work in which you have no experience is not regarded as suitable when there are jobs available in areas in which you have training or experience. Generally, the Department considers the degree of risk involved to health, safety, and morals, and the individual's physical fitness and prior training, experience, earnings, and employee benefits. The Department also examines whether hours and conditions of the work offered are substantially less favorable than those prevailing for similar work in the labor market area. The Department will not regard a job as suitable if the job pays less than 80 percent of your previous weekly wages within 20 weeks of becoming unemployed and less than 70 percent if you are unemployed for more than 20 weeks. Where the work offered pays less than the work you had, it is not suitable, at least not when you first start looking.

However, you may be able to collect unemployment benefits if you attend a training program that is approved by the Division. Training programs will make you more employable by increasing your job skills. If you enroll in such a program, you must contact the Reemployment Call Center to schedule an interview to determine

whether the training program will be approved. You will not have to search for work or accept work while attending an approved training program.

To qualify for benefits under a training program, you must intend to enter counseling and training within 30 calendar days from the date of your Reemployment Orientation or 60 calendar days from the date you were “permanently separated.” There are several training programs for which you may be eligible. The Work Force Development Program (WDP) assists workers in preparing for careers that are in high demand. The WDP offers career counseling, vocational and remedial education, tuition waivers, and grants to subsidize the cost of training in marketable skills. The Workforce Investment Act (WIA) is another training program designed to train people who are eligible for unemployment benefits.

For further information about the various training programs, contact your local One-Stop Career Center or unemployment office. The One-Stop Career Center may help you find a job free of charge. For instance, they may:

- Refer you to jobs within your area or throughout the state or the country;
- Refer you to training programs;
- Offer testing and counseling to determine what jobs you are best suited for; and
- Refer you to agencies that may assist you with physical or other special problems that prevent you from getting a job.

### ***Distance to work***

The distance to a job may make it unsuitable if you are physically unable to travel to a job due to health or age, when work requires excessive time or cost to reach,<sup>83</sup> or when public transportation to the job site is inadequate.

However, you are expected to make reasonable efforts to get to a job, especially if no jobs exist close to where you live. For migrant farm workers, if the work is far away, it may still be suitable if transportation costs are paid and working conditions are “as favorable or more favorable” than other places where you worked during the year.

A map, bus, or train schedule may help you convince the Department how far it is from your home to work, and how long it takes to get there.

### ***Part-time or irregular work***

Part-time or irregular work is not suitable for someone looking for full-time work. You should not lose benefits for refusing part-time work if you are looking for full-time work.

## **Other things that affect your eligibility**

We have already discussed the following things that affect eligibility for unemployment benefits: the reason you left, whether you worked enough before leaving your job, reporting on your work search, being able and available for work, and accepting suitable

work. Mentioned below are some other things that affect whether you are eligible for unemployment benefits and, if you are, how much you will get.

### **Quitting your previous job**

If you quit a previous job without good cause related to the work, you will have to get a new job and become eligible for unemployment benefits through your new work. Before you can collect unemployment benefits again, you will have to work for at least four weeks, earn at least six times your weekly benefit rate, and again lose your job in a way that doesn't disqualify you from getting benefits.<sup>84</sup> This restriction can remain in effect even after a second job if you do not work enough at the second job to again become eligible.

**Example:** Jamaal quit his job at a restaurant to take a higher paying factory job. The factory laid him off after one week for lack of work. Jamaal was not eligible for unemployment benefits because he quit the restaurant job without a good reason related to the work. At the time the factory laid him off, he had not worked four weeks and made six times his weekly benefit rate, so the quit from the restaurant was still in effect. Jamaal was not eligible for unemployment benefits.

### **Payment when your job ends**

Sometimes, when your job ends, you get payment instead of a notice period before your job ends. During the time you continue to get these payments ("remuneration in lieu of notice"), you are considered employed and are not eligible for unemployment benefits.<sup>85</sup>

Unlike "remuneration in lieu of notice," severance pay is money paid at the end of a job for past services to an employer that do not extend the date you are terminated. You are not considered employed while receiving severance payments and are eligible for unemployment benefits.<sup>86</sup>

Sometimes, after your job ends, you get paid in a lump sum for the vacation time you have earned but not used. This payment will not disqualify you for unemployment benefits.<sup>87</sup> If you are on vacation without pay, you can collect unemployment benefits (unless it was your choice to be on vacation without pay).<sup>88</sup>

Sometimes, before your job ends, your employer chooses to do without the services you normally perform but pays you for them anyway until your job ends. During the time you continue to get these payments, including lump sum payments ("salary continuation through date of employment"), you are considered employed and are not eligible for unemployment benefits.<sup>89</sup>

### **Losing your job while on disability leave**

If you are laid off or discharged from your job while you are collecting temporary disability or workers' compensation benefits, you should file for unemployment benefits when you recover. (These disability programs are described on pages 28-30.)

Sometimes, people on disability do not have wages during the first four of the last five quarters to meet the hours worked or alternative earnings tests on page 11. However, you may be able to use the wages you earned in an “alternative base year” to qualify and set your benefit rate.

To use an alternative base year, you must have recovered either from a workers’ compensation disability that began within two years before you file for unemployment or from a disability under the temporary disability program. Work with your employer must be no longer available when you recover. Also, you must file your unemployment claim within four weeks of recovering. If you have enough wages in your regular base year, you can choose whichever gives you a higher weekly benefit rate (see page 11): the regular or the alternative base year.

### **Taking a part-time job**

If you have lost a full-time job, taking a *part-time* job usually will not make you ineligible for unemployment benefits. Your benefit amount will probably be reduced, however, as explained on page 42.

### **Immigration status**

For an immigrant to be eligible for unemployment benefits, federal and state laws require that he or she be (1) lawfully admitted for permanent residence at the time the work was performed, (2) lawfully present for performing the work, or (3) permanently residing in the United States under color of law (PRUCOL) at the time the work was done (meaning during the base period, as explained on page 10).<sup>90</sup>

If you were a lawful permanent resident while working, you are eligible for unemployment under category one. If you had work authorization or other permission to work during your base period, you qualify under category two.<sup>91</sup> People with Temporary Protected Status (TPS) are eligible for work authorization and therefore qualify under category two.

If you have a claim to lawful status in the United States, you can argue that you are eligible as PRUCOL under category three. People with a claim to lawful status include those applying for asylum or adjustment of status through a relative or employment, or those who the Immigration and Naturalization Service knows are here but, for whatever reason, will not deport.

Remember, however, that to qualify for unemployment benefits, people not only must have done enough work in the past, but must be “able and available” for work in the future (see page 25). For immigrants, this means that you must show that you were working lawfully during your base period and that you can lawfully work in the future.

### **Interstate claims: what happens if you move**

You can still get unemployment benefits if you move to another state after your job ends. All states, the Commonwealth of Puerto Rico, the Virgin Islands, Washington, D.C., and Canada cooperate in interstate claims.<sup>92</sup>

If you move to a town in New York or Pennsylvania that is near New Jersey, you can file in the nearest New Jersey claims office (see page 60), or telephone the nearest Reemployment Call Center (see page 40). If you don't move in or out of state, but crossed state lines to work, you must file your claim in the state where you worked. The rules for unemployment in the state where you worked apply.

Properly filing an unemployment claim in New Jersey meets the filing requirements of the state where you worked (unless you crossed state lines to work, as mentioned above). If you worked in New Jersey, then moved out of state, the state where you live will investigate facts about your claim and report them to the state where you worked. The laws of the state where you worked will apply in determining whether you get unemployment benefits. Generally, interstate hearings are held by telephone with an unemployment office in the state where you worked.

For general information about interstate claims filed in New Jersey, workers can call the Department of Labor's Interstate Office, Monday through Friday, 8:30 a.m. to 4:30 p.m., at (609) 292-8888, 292-8887, or 292-2047. Also read the New Jersey rules for interstate claims.<sup>93</sup>

### **Strikes and lockouts**

Strikers, and even those locked out of work by their employers, generally are ineligible for unemployment benefits. The law says that if you are unemployed "due to a stoppage of work which exists because of a labor dispute," you are ineligible for benefits unless you were not involved in the labor dispute.<sup>94</sup> You were not involved if you did not participate in or finance or have direct interest in the labor dispute, or you did not belong to a grade or class of workers that was participating in or financing or directly interested in the dispute.<sup>95</sup>

There are more issues and court decisions involving work stoppages than this handbook can cover. Ask your union representative about how your unemployment benefits are affected by a strike or lockout at your workplace.

### **Fraud**

Workers cannot get unemployment benefits for a year after the Department discovers "the illegal receipt or attempted receipt" of unemployment benefits through "false or fraudulent representation."<sup>96</sup> Criminal prosecution is also possible.<sup>97</sup> If you find yourself in this situation, immediately appeal and see a lawyer, because if convicted you could be fined and imprisoned. (You can dismiss [cancel] the appeal after you have talked to a lawyer. However, because deadlines for appeals are short, you should appeal right away to make sure that you do not lose the chance.)

You may get this notice months or even years after the fraud or attempted fraud. If you do not appeal immediately after you get the notice, or if you lose your appeal, the Department can collect the money it believes you received through fraud or attempted fraud from your state tax refund, homestead rebates, and any future

unemployment benefits. Also, the Department will add a fine and interest which will continue to increase until the entire amount is paid. (See page 57 on overpayments.)

**Reminder:** To remain eligible for unemployment benefits, you must:

- Report to the local office as scheduled and call in for scheduled telephone appointments.
- Be able to work.
- Be available for work.
- Actively seek work.
- Not refuse any offer of suitable work.
- Claim your continued unemployment benefits by telephone or by mail.

## Chapter 2

# How Much Money Will I Get?

Unemployment checks are sent every two weeks. After your application for unemployment is approved, there is a *waiting week* during which you will not be paid. After you are paid for the second, third, and fourth weeks of your claim, you will be paid for the waiting week, assuming that you were eligible for benefits during this time.<sup>98</sup> If you are unemployed for only three weeks, you will not be paid the waiting week, but you will be paid for a total of two (the second and third) weeks. If you are unemployed for four weeks, you will be paid for all four weeks.

## Calculating your weekly benefits

The *amount of benefits* you will get depends partly on how much money you earned before filing your claim. How much money you get each week is called your *weekly benefit rate* (WBR). Your WBR is about 60 percent of your average wage during your base period. There is a statewide limit to the amount you can get, which is called the *maximum weekly benefit*. The maximum weekly benefit for the year 2000 was \$429. It is \$446 for 2001.<sup>99</sup> Amounts for other years are set annually by the Department of Labor. You will get about 60 percent of your average base period wage, up to the state maximum weekly amount.

## Dependency benefits

You may also get additional money, called dependency benefits, to help support your dependents (spouse or children) while you are unemployed. You can get dependency benefits if you are not receiving the maximum weekly benefit and have an unemployed spouse and unmarried children under the age of 19 (or under age 22 if the child is still in school).<sup>100</sup>

Dependency benefits are seven percent of your weekly benefit rate for your first dependent and four percent for each of the next two dependents. However, your total benefits (your benefits plus dependency benefits) cannot be more than the maximum weekly benefit.<sup>101</sup>

## Your benefit year

Once you file a claim, your weekly benefit rate and your claim are good for one year. If you go to a local unemployment office within a year (minus two days) after you have filed a claim, your old claim will be reopened. No new claim will be filed. This means that if you return to work before collecting all of your benefits, and then become unemployed again, your original claim may be reopened as long as the benefit year has

not expired. Note that you may also reopen your claim for benefits if the circumstances which made you ineligible change.

(Benefit years do not apply if you receive temporary disability insurance; you may receive a fresh 26 weeks of eligibility with each new injury and claim.)

**Example:** Mei files a claim for unemployment benefits in March. She collects for two months, then goes back to work in May. She works for a month and then gets laid off in June. When she goes back to the unemployment office, they will reopen her claim from March. They will use the same claim and the same weekly benefit rate she had from the March claim.

As mentioned earlier, your wages from your base period are not always reported to the Department. Check your notice to claimant of benefit determination form carefully. If all of your wages are not reported, your weekly unemployment checks will be lower than they should be. You need to bring this to the attention of the Department and, if you cannot get it corrected, you should file an appeal.

Some people think that because they agreed to take their pay in cash (“under the table”) there’s nothing they can do to get their full unemployment benefits. That’s not true. You will have to prove what your wages were by your own word and, if possible, by having others who will testify that they know what you were paid.

## How long you can collect unemployment benefits

There is a limit to how many weeks you can collect unemployment benefits. Ordinarily, the longest you can collect unemployment benefits is 26 weeks within a year from the date when you file your claim.<sup>102</sup> Extended benefits may be available in limited circumstances for displaced workers in special classifications.

If you worked 35 weeks or more during your base period, you should be eligible for a full 26 weeks of benefits. If you worked less than that, you will probably only get benefits for 75 percent of the number of weeks you worked.<sup>103</sup>

## Reduced hours, part-time work, and partial unemployment

You can get unemployment benefits if you work part-time because the employer doesn’t have full-time work. How much money you get will be reduced in part by the money you make from your part-time job. You can earn up to 20 percent of your weekly benefit rate and still get full benefits. If you make more than 20 percent of your weekly benefit rate, then the money you earn over that amount will be deducted from your benefit check dollar for dollar. You will not receive any benefits if the weekly pay from your part-time job pays 120 percent or more of your weekly benefit rate. Part-time or “less than full-time” is defined as not more than 80 percent of the hours normally worked in the individual’s occupation.<sup>104</sup>

**Example:** Hitoshi's weekly benefit rate is \$120. He finds several small jobs and earns \$75 in one week. To calculate how much he should receive in unemployment benefits, subtract 20 percent of the weekly benefit rate (\$24) from the \$75 earned. His weekly benefit rate will be reduced by \$51, meaning that he will get \$69 in unemployment benefits for that week.

See page 42 for instructions on how to claim partial benefits by mail.

## **Pensions, Social Security, or other income**

Depending on the type and amount of your pension, you may be able to collect unemployment benefits at the same time as your pension. If you contributed the entire amount of your pension, such as in an IRA or Keogh account, your unemployment benefits will not be reduced. You may collect both the pension and unemployment benefits at the same time.<sup>105</sup>

If both you and your base year employer contributed to the pension, your unemployment benefits may be reduced by 50 percent of your weekly pension amount.<sup>106</sup>

If the employer you worked for during your base period contributed the entire amount to your pension and you contributed nothing, your unemployment benefits may be reduced by 100 percent (dollar for dollar) of your weekly pension amount.<sup>107</sup>

Social Security retirement benefits will not reduce your unemployment benefits if you are otherwise eligible.<sup>108</sup>

Lump sum pension payments made to individuals involuntarily separated from work prior to the age at which they may receive full pension payments may have the unemployment benefits reduced during the week in which the payment was made.<sup>109</sup> You may "roll over" (reinvest) a pension payment to avoid an unemployment benefit reduction.<sup>110</sup>

## Chapter 3

# How to Apply for Unemployment Benefits and Appeal Denials

This section describes how to apply for unemployment benefits and how to appeal if you think the Department of Labor improperly denies you unemployment benefits, claims that it overpaid you, miscalculates your benefits, disqualifies you, says that you did not appeal in a timely fashion, or otherwise finds you ineligible for benefits. It discusses how to present your case at each level and what happens if the Department says that it did not pay your benefits correctly.

## The claims process

### Filing a claim

You can file for benefits by phone or by mail. You should file your unemployment claim as soon as possible after becoming unemployed.

#### **Filing a claim by telephone**

To file by telephone, you should call a Reemployment Call Center. There are three Reemployment Call Centers for filing new claims and reopening existing claims. Each local unemployment office is assigned to one of the Reemployment Call Centers:

| Reemployment Call Center | Telephone      | Hearing impaired people or TTY users may call: |
|--------------------------|----------------|--|
| Freehold                 | (732) 761-2020 | (732) 761-2035                                 |
| Union City               | (201) 601-4100 | (201) 601-4159                                 |
| Vineland                 | (856) 507-2340 | (856) 507-2399                                 |

The chart on page 60 shows which Reemployment Call Center is assigned to your local unemployment office.

The Reemployment Call Center will provide you with information about the unemployment benefits system and will give you instructions about what you need to do to get benefits. When you call, you will hear a welcome message. You will then be asked to enter your Social Security number and confirm your mailing address. Next, you will either select a four-digit Personal Identification Number (PIN) if it is your first time calling, or enter your PIN if you have called before. If you originally filed

your claim through a Reemployment Call Center, you must use the same PIN you selected at that time. The PIN that you select will be stored in the computer and is necessary to process your claim. It is important to safeguard your PIN. It is not accessible to anyone other than yourself, including Department workers. If you forget it or wish to change it, you must report in person to your local unemployment office. *Do not* reveal your PIN to anyone.

After you have entered your PIN, the telephone system will ask you to verify the dates of the weeks you are claiming. You should verify these dates with the dates on your “Claim for Benefits” form. If the dates are correct, you will be asked the following questions:

- Were you able and available for work?
- Were you actively seeking work?
- Were you offered any job or training?
- Did you receive any vacation pay, holiday pay, commissions, or have earnings from self-employment?
- Are you now receiving or have you applied for a pension or other retirement pay, not including Social Security benefits?
- Did you work during the weeks claimed?

For all questions, you will press 1 for yes, 2 for no. After you have answered these questions, you will be asked to affirm that your answers are true. Then the telephone system will tell you if your certification has been processed or you may be transferred to an agent to clarify any questions that remain.

The interviewer (also called a “deputy”) at the unemployment office or over the telephone will also ask you the names and addresses of all your employers during the last 18 months, how long you worked for each one, and your reason for leaving the job. Employers have the right to argue against your claim. Many employers know about the unemployment benefits system and what things can make a worker ineligible for benefits. If your employer tells the claims examiner that you are not eligible for unemployment, try to get some expert advice from a lawyer or your union representative.

### ***Filing a claim by mail***

You should claim your unemployment benefits by mail if you:

- Are employed part-time or are reporting earnings and/or holiday or vacation pay;
- Are attending school or a training program.

To claim benefits by mail you should:

- Complete section A of the “Claims for Benefits” form by answering the seven questions.
- Complete section B only if you are attending an approved training program. Section B must be completed by your training representative.

- Complete section C if you worked or received holiday or vacation pay during the weeks claimed.
- Sign and date the form no earlier than the end of the week(s) for which you are claiming benefits.
- Enclose the completed form in an envelope and address it to the unemployment claims office shown in the lower left-hand corner of the form. You *must* provide postage. If you are claiming partial unemployment benefits, also include proof of your earnings, signed by your employer. (See *Claiming partial benefits by mail* below.)
- Mail your claim form on the date that is shown on the upper left-hand corner following “Claims benefits on...” The form will be returned to you if you mail it prior to that date. Likewise, benefits may be delayed or denied if you mail the form late. You must mail the claim form within seven days of the scheduled mailing date or your benefits will be denied.

### ***Filing a claim after returning to work***

When you return to work, you cannot claim your unemployment benefits by telephone. You should do so by mail. Carefully complete the “Claims for Benefits” form and mail it to the address that is listed on the form. Enter the amount of gross wages you earned during the week(s) claimed and mail it after you have begun work. The form must be mailed after you have begun work and postmarked within 14 days of the day you were scheduled to mail it. Note that failure to complete the form will delay the processing of the form. If you are entitled to a final check, it will be mailed to you.

### **Claiming partial benefits by mail**

If you are working part-time because your employer has full-time available work for you, you may be able to collect partial employment benefits. Your claim for partial benefits must be received within four weeks after you receive your certified pay voucher, envelope, or stub from your employer. To file that claim by mail, you must:

- Complete the “Claims for Benefits” form with close attention to Section C.
- Sign and date the form.
- Provide proof of earnings such as payment vouchers, pay stubs that include your name, each employer’s name and address, the week ending date, the amount of part-time gross earnings for that week, a notation that you earned less than full-time wages due to lack of work. That information must be signed by your employer or authorized agent. **Note:** *The New Jersey Unemployment Compensation Law requires that all claimed weeks of unemployment begin on Sunday and end on Saturday.*
- Complete item #4 of section C of the “Claims for Benefits” form and include the dates you worked, the number of hours and your daily gross wages including tips for each week that you are claiming partial benefits.
- Have your employer complete and sign item #5 in order to verify your earnings.
- Mail the claim form and corresponding documents to the unemployment claims office shown on the form.

- Call a Reemployment Call Center to reopen your claim if you work full-time for two or more consecutive weeks and then become unemployed or partially employed.

### **Claims examiner (deputy) determination**

After the deputy gets information from you and your employers about your claim, he or she decides whether you are eligible for benefits based on the unemployment laws.

If the deputy thinks that you may not be eligible for unemployment benefits, you will be scheduled for a telephone fact-finding meeting. Your employer will also get a copy of the notice of the fact-finding meeting. After this interview, you will receive a notice of determination explaining either that you are eligible for benefits or the reasons why you are not.

### **Approved benefits**

If the deputy decides that you are eligible, you will get a notice of determination telling you so. Your former employer will also get a copy of the notice, and the employer has the right to appeal the decision. The claims agent will initiate a benefit check, which will be printed and mailed from the central processing center in Trenton. The entire process, from the date you mail your form, to the date you receive your check, takes approximately seven days.

**Note:** Unemployment benefits are subject to federal income taxes and to federal rules that apply to reporting income and payment of taxes. The IRS may impose penalties if you do not pay the appropriate taxes.

### **Denials and appeals**

If you are denied benefits or if the employer disagrees with the decision, either of you may appeal the deputy's decision. Appeals are made to the Appeal Tribunal and must be made within 10 days of the date the decision was mailed (or within seven days from the day you received the decision, in unusual circumstances, such as when your mail is delayed).<sup>111</sup> Saturdays, Sundays, and holidays do not count toward the appeal period.

You may file your appeal by mail or by directly reporting to the local unemployment office. If you appeal by mail, state the reasons for disagreeing with the denial. If your appeal is late, state the reasons why it is late. You must clearly include your name, Social Security number, and address on your appeal.

### **Appeal Tribunal hearing**

If you or your employer appeal a deputy's decision, the Department of Labor will schedule a hearing with the Appeal Tribunal. A person called an Appeal Examiner will conduct the hearing. Workers and employers may represent themselves at the hearing or have someone represent them. The representative doesn't have to be a lawyer and is often a union representative.<sup>112</sup>

The hearing is your time to tell the details of what happened. You won't get another face-to-face hearing, so you need to be prepared with all of the testimony, witnesses, documents, and exhibits at this time. Advice on how to prepare for an Appeal Tribunal hearing may be found in Chapter 4 on page 47.

After the Appeal Tribunal hearing, the Appeal Examiner will write a decision and mail it to you, the employer, and the Department of Labor. A separate copy should be mailed to your lawyer or other representative. However, the Department does not always send this second copy, so check with your representative when you receive your copy.

### **Board of Review decision**

You, your employer, or the Department of Labor can appeal the Appeal Tribunal decision to the Board of Review. This appeal must be made within 10 days of when the parties are notified of the decision or within 10 days from mailing. An appeal that is filed late, without a good reason, may be dismissed. The instructions for filing an appeal will be sent to you along with the Appeal Tribunal decision.

The Board of Review reviews Appeal Tribunal decisions. The Board can agree with, reverse, or change Appeal Tribunal decisions.<sup>113</sup>

At its discretion, either the Board of Review or the Appeal Tribunal may also choose to schedule a telephone hearing. An interested party may request such a hearing. You or another interested party may also choose to object to the phone hearing. The Board or Tribunal will decide whether to replace the phone hearing with an in-person hearing.

If you are unable to attend a scheduled hearing, you should request a postponement in advance. Postponements may be granted for good cause.

Usually the Board of Review does not hold a hearing. You can send the Board of Review a written argument along with your appeal. If you need more than a few days to do this, you should file your appeal right away and write or call the Board to tell it when you will be able to send your written argument. The Board of Review is located at the following address:

Board of Review  
Department of Labor  
John Fitch Plaza  
P.O. Box 937  
Trenton, NJ 08625  
(609) 292-2600

The Appeal Tribunal hearings are tape recorded, and you may want to consider listening to the tape of the hearing before you file your written argument. You have the right to request the tape from the Board of Review. Even though you were at the

hearing, listening again to what was said will help you to prepare your written argument to the Board of Review.

### **Court review**

If any of the parties are unhappy with the decision of the Board of Review, they can appeal the decision to the Appellate Division of the Superior Court of New Jersey.<sup>114</sup> You must file the appeal within 45 days of the date of the Board of Review's decision. If you have a very low income, you may ask the court to let you file your appeal without paying a fee.<sup>115</sup>

The appeal will be based on the facts presented at your Appeal Tribunal hearing<sup>116</sup> and the decisions of the Appeal Examiner and Board of Review.

The Appellate court will look at the laws, regulations, court rules, and court decisions that relate to your situation. A lawyer from the Attorney General's office will represent the Department of Labor in court. Individuals are allowed to represent themselves. If you don't have your own lawyer, it would be useful for you to talk to a lawyer who knows about unemployment law before going to court.

### **Time to appeal**

The time limits for filing appeals are very important. If you do not act within the time allowed at each step of the process, you could lose your rights. Some of the time limits are as short as 10 days. Make sure to tell the Department if you change your address so that you will get all notices and decisions. Since the time to respond is so short, it is important that you get mail from the Department right away .

In the past, the Department of Labor has followed these timelines very strictly. In 1992, the New Jersey Supreme Court decided that when workers have a good reason for appealing late, they must get a chance to explain. When the worker's reason for appealing late is a good one, the Department will hear the appeal and consider the reasons.<sup>117</sup>

It is best, of course, to avoid this trouble and file your appeal on time. The simplest way to file on time is to go to your local unemployment office within 10 days of the date the notice or decision was mailed and ask to file a written appeal. Take the notice or decision that you are appealing with you. You can also mail your appeal to the local unemployment office by following the mailing instructions on the notice of determination. When you mail your appeal, the Department will use the postmark on the envelope to count the 10 days after the date of mailing. If there is no postmark, it will go by the date the local unemployment office receives it.<sup>118</sup>

There are no specific words you need to use to appeal, but you must appeal *in writing*. If you are unable to file an appeal in writing, ask a worker at the unemployment office for help. At the very least, you should write "I appeal the Department's decision because I think it is wrong."<sup>119</sup>

To count the 10 days, day one is the day after the date on the notice. Day 10 is the day when the appeal is due. If day 10 is a Saturday, Sunday, or legal holiday, then the appeal is due on the next day that is not a Saturday, Sunday, or legal holiday.<sup>120</sup>

If the Department denies you benefits and you appeal, you should keep searching for work and filing your work search reports until you get the Appeal Examiner's decision. Remember, you can only get benefits for weeks when you've been actively looking for work and reporting to the Department. If you win your hearing and have been reporting to your local office, you will get back benefits. If you win your hearing and have not been reporting, you will not get benefits for those weeks you have not filed your reports.

## *Chapter 4*

# **Your Appeal Tribunal Hearing**

If you are denied benefits, you appeal the decision by requesting an Appeal Tribunal hearing. If the employer is not happy with a decision, he or she also may request an Appeal Tribunal hearing. It is important to prepare for your hearing carefully because you have only one hearing and will need to present all of your evidence and testimony at that time.

## **Preparing for your Appeal Tribunal hearing**

Preparing for your hearing is very important. The hearing probably will be the only chance you have to prove that you are eligible for unemployment benefits. Taking time to prepare gives you the best chance to get the benefits to which you are entitled.

The Department of Labor will send you a notice telling you when and where your hearing will be held. The notice will be mailed at least five days before your hearing.<sup>121</sup> The hearing will be scheduled about three to four weeks from the time you file your appeal of the claims examiner's decision. You may represent yourself or take someone to represent you.<sup>122</sup>

Before the hearing date, you can ask that the hearing be rescheduled if you cannot get there.<sup>123</sup> Be sure to ask when your new hearing will be because the Department sometimes does not reschedule hearings until months later.

## **Telephone hearings**

Most hearings are held in person. However, in the year 2000, 31 percent of all appeal hearings were held by telephone. The Appeal Examiner<sup>124</sup> will be in one place, the employer (if involved) in another, and you, somewhere else (such as at home). Interstate hearings are held by telephone since the people involved are in different states.

There are advantages to telephone hearings; they are convenient and save on travel time. But there are disadvantages, too. It is much harder to tell if someone is telling the truth when you cannot see him or her. Since the Appeal Examiner will not be able to see you while you testify, he or she will have to make a decision based only on what is said. If you want to question the employer or the employer's witness, you will have to do so without being able to see that person.

If your case involves documents, mail them to the Appeal Examiner at least five days before your telephone hearing. (If you do not do this, the evidence can be accepted

only if all parties agree.) If you want to use evidence that is large or not on paper, a telephone hearing may be impossible. If there are many witnesses or an interpreter, a telephone hearing may be confusing.

You will get a notice from the Department giving you a telephone number to call, collect, on a certain date and time. The notice should also tell you that you can object to a telephone hearing, and it should include copies of documents to be offered into evidence.<sup>125</sup>

Prepare for a telephone hearing the same way that you would prepare for a regular in-person hearing. Arrange for child care if necessary, and avoid interruptions during your hearing.

You can request a telephone hearing by telephoning the Appeal Examiner, followed by writing a letter to the Appeal Tribunal at least three days before the scheduled in-person hearing.<sup>126</sup> The Appeal Tribunal will decide your request and let you know right away.

Sometimes the Appeal Tribunal schedules telephone hearings on its own. The rules say that it may schedule a telephone hearing when a party (you or the employer) or a witness is more than 50 miles from where the hearing will be held, or when a party or witness cannot come in person because of “a physical, medical, or other compelling reason.”<sup>127</sup>

However, you can phone the Appeal Examiner to object to a telephone hearing. Put your reasons in writing and send them to the Appeal Examiner as soon as you receive the notice of the telephone hearing.<sup>128</sup> The Department can refuse your request for an in-person hearing if it believes you are trying to inconvenience the employer or delay the hearing, or because a party or witness is more than 50 miles away, or if a person involved cannot come in person because of physical, medical, or other compelling reasons.<sup>129</sup>

### **Look at your file**

The Department keeps a file on every unemployment claim. After you have been scheduled for your hearing, you may call the Appeal Examiner at the Appeal Tribunal office to set up a time to look at your file. The Appeal Examiner’s number will be on the notice of hearing.

Look at all forms and materials in the file. Get a copy of anything in your file that you do not already have. There is no charge. Look carefully at any notes that the Department’s claims examiner took while talking to your employer. It is important to know what the employer has said when you prepare your case.

### **Think about what you will say**

Think about how to present your case in the best light. Knowing the law, outlined in this handbook, will help you tell the Appeal Examiner why the decision of the claims examiner was wrong and why you are entitled to benefits.

There are two parts to what you should say. One is giving testimony (spoken statements under oath) about the facts. The other is presenting your argument about why, based on the facts, the law says that you should win.

**Example: Fact:** I quit my job because I was the only woman on my road crew. The men were always bothering me and making nasty jokes. When I complained to the foreman, he laughed and told me to “take it like a man.” **Argument:** I quit for a good reason related to my work. The harassment was a good reason for me to quit. It was related to my work because co-workers were bothering me on the job and the supervisor did nothing to correct the situation when I complained.

### **Prepare notes**

Make notes about what you want to say. List the facts and arguments you need to make, based on the law. Many people get nervous and forget some of the things they want to say when they attend hearings. Do not read your prepared statement as though it is not as interesting or as convincing as something you say in your own words. The notes will remind you of the things you want to be sure to mention. Cross off each point on your list after you mention it. Be ready to answer all of the questions the Appeal Examiner asks you.

Sometimes there is no real disagreement about the facts. If you believe the law supports awarding you benefits based on the facts, you can write a “brief” (written legal argument), but it is not necessary. Give a copy of your brief to the Appeal Examiner and to your employer if he or she comes to the hearing. Keep a copy yourself. A brief describing only facts is not very helpful; you still will have to testify (explain your story under oath) about the facts of the case. This is true even if you write a brief on the legal arguments.

### **Think about what the employer has said or will say**

By looking at your file, you can see what notes the claims examiner took about what the employer said. Perhaps the employer will go to the hearing. Think about what might be the employer’s side of the story. Think about what might be wrong with what the employer says.

### **Think about proof you will need**

Think about what proof you will need to support what you will say and to show that what the employer will say is wrong. Once you know what you will say, you can think of ways to prove it. Also, you can figure out what you can present to make your story strong and the employer’s story less believable. Maybe photos would help the Appeal Examiner understand what happened; or maybe a diagram or map would be better. Maybe there are documents such as medical records or letters that would help. Maybe there are witnesses or other people that would help you. Your employer may have witnesses or information that may hurt your case; if so, think about what questions you will ask them and how you will respond to or explain what they might say.

You can make a list like the one below to help you plan what proof you'll need to take to your hearing. Some examples are filled in that might apply in a quitting for good, work-related cause case (example one), a misconduct case (example two), and a refusal of suitable work case (example three). These examples are just to give you ideas. Each case is different, and each plan will be different.

| I want to prove   | How I will prove it  |
|---|--|
| (1) The machine I worked on didn't have a hand guard and was unsafe.                                  | <ul style="list-style-type: none"> <li>• photograph (get someone to take one)</li> <li>• my testimony</li> <li>• witness? need subpoena?</li> </ul>  |
| (2) The cash shortage at the register was a mistake, not on purpose.                                  | <ul style="list-style-type: none"> <li>• records showing no shortages in past</li> <li>• my testimony</li> </ul>   |
| (3) A planting job in a nursery is not suitable when my past work was as a bookkeeper in the nursery. | <ul style="list-style-type: none"> <li>• employer job descriptions of planter and bookkeeper</li> <li>• witness testimony</li> <li>• list of past jobs held</li> <li>• my testimony</li> </ul> |

### Prepare charts or diagrams

Prepare any charts or diagrams ahead of time so that you don't have to spend the time drawing them at the hearing and so that they are correct. Get documents or photos that you will need. If there's a document you need but can't get, ask the Appeal Examiner for a *subpoena duces tecum* form to fill out. A *subpoena duces tecum* is similar to the subpoena explained in the next section, but it means that the employer must give you documents, not send a person.

### Get witnesses to come to the hearing

You can have witnesses at the hearing. Witnesses should be able to testify about the facts from their own personal knowledge. The more believable the witness, the better.

Be sure to ask the witness ahead of time what he or she would say at the hearing. Sometimes workers think that it is improper to discuss testimony before the hearing, but that is not true. You need to know what the person would say. If it would not be helpful, then do not have that person as a witness!

Help prepare your witnesses for questions that the employer or the Appeal Examiner may ask. Because you know what happened, you know what is likely to be asked. Witnesses will, of course, need to tell the truth. But it is helpful for them to have thought about the issues in advance so that they can answer accurately.

If you know a witness whose testimony would be helpful to you but who won't come to the hearing voluntarily, you can order that person to appear by filling out a subpoena. To get a subpoena, call or write the Appeal Examiner and explain why you need it. The Appeal Examiner should be able to give you instructions on how to serve the subpoena.

To get testimony from witnesses who will not come and whom you don't want to subpoena, ask them to sign a certification. A certification is a written statement sworn under oath saying what the witness knows to be true. It is best for the witness to sign it in front of a notary public, who can then notarize it. If the witness won't sign a certification, a regular letter will do. Be aware, though, that Appeal Examiners will give more weight to witnesses who appear in person than to written testimony, and more weight to sworn written testimony than to a plain letter.

Try to subpoena witnesses at least several days before your hearing. With reasonable advance notice, they can make arrangements to be there. If a witness does not appear, you can show the Appeal Examiner proof that the witness was served (given) the subpoena. Then tell the Appeal Examiner what the witness would have said if he or she had come to the hearing. Technically, the Appeal Examiner is supposed to adjourn (stop) the hearing and refer the matter to the Attorney General's office for enforcement. However, Appeal Examiners often don't like to stop hearings unless there is good reason to do so, and may accept your explanation of what the witness would have said.

### **Confidentiality**

All testimony at hearings is under oath. The Department of Labor keeps the evidence presented at a hearing confidential and prohibits its use in other *civil* (noncriminal) actions or proceedings.<sup>130</sup>

### **Information from unemployment hearings in later criminal proceedings**

The admissibility of information obtained in unemployment hearings in criminal proceedings is not clear. (Some disclosures to law enforcement agents are allowed.) If your case involves possible fraud or crime on your part, you risk arrest and prosecution. Talk to a lawyer before your hearing.

### **At the Appeal Tribunal hearing**

A hearing is more formal than a meeting at the local office. Dress as if you were going to church or temple. Don't be late. If you are unable to go, call ahead of time to tell them. If you do not go, the Appeal Examiner can decide your case based only on your file or dismiss your appeal, unless there is a good reason ("good cause") to reschedule the hearing.<sup>131</sup> Try to avoid rescheduling the hearing; you may not get another hearing date for a long time.

The Appeal Examiner is in charge of the hearing and will tape record what is said. The Appeal Examiner is not a judge, although he or she can do some of the things a judge can do.

You have the right to a fair and impartial hearing. ("Impartial" means that the Appeal Examiner should not favor one side over the other.) If something happens during the hearing that makes it so that all of the facts can't be presented or the proceedings are unfair, the Appeal Examiner should stop the hearing. For example, if you are using an

interpreter but the interpreter doesn't interpret well, the Appeal Examiner should stop the hearing because not all of the facts are being presented.

The Appeal Examiner will explain how the hearing will proceed. He or she will probably ask who each person present is, which witness is for which side, what documents will be presented, and so forth. The Appeal Examiner will explain that the worker goes first, then the employer, if present. If you are representing yourself, the law says that the Appeal Examiner must give every assistance that does not interfere with his or her impartiality. Do not count on the Appeal Examiner for help, though; he or she will expect you to be prepared and know the facts.

You will swear to tell the truth and then present your case. Your testimony will be easiest to understand if you tell your story in order from the earliest thing that happened to the latest. Jumping around in time may be confusing.

### **Questioning witnesses**

You can present any witnesses you asked to come. If you have more than one witness, it is a good idea to have the witnesses who have not testified wait outside the hearing room. That way, they will not hear each other's testimony, and when they present their own testimony, it will be more believable.

Each witness will be sworn to tell the truth. Witnesses should tell what happened based on their own knowledge. You help them tell their story by asking them questions. You and the witness already will have talked about what questions you will ask, so the witness will be prepared. The Appeal Examiner and the employer can ask your witnesses questions after you have finished. You will have prepared your witnesses for their questions as well.

When the employer questions witnesses that you have presented, he or she is only supposed to ask about things that the witnesses have said during their testimony with you. This is called cross-examination. The point is to clarify the witness's testimony or to reflect on how credible (believable) a witness is. If the employer wants to question one of your witnesses about other topics, the employer will have to call that person as a witness when it is the employer's turn to present its case.

After the employer has cross-examined your witness, you can ask the witness questions about things the employer asked about. You can't bring up new topics, but you can clarify anything that was already said. Do not feel that you have to ask more questions, though; often the witness does fine and there is no need to clear up anything.

If there is a troublesome issue you know will come up, usually it is best if you bring it up on your own. If the employer or the Appeal Examiner is the one to bring it up, it puts you on the defensive, and your answers may not be convincing. When you bring up the issue yourself, you can give your explanation first and put the issue in the best light.

If your employer comes to the hearing, he or she will have a chance to present his or her case after you and your witnesses are done. Even though you will be relieved that your part is over, you must *listen carefully* to what the employer says. He or she might not tell the story accurately or may say something helpful to you. Take notes on things you want to respond to so that you remember them. Just as the employer can question your witnesses, you can cross-examine the employer's witnesses. The Appeal Examiner will not allow you to raise new topics.

Asking the employer or employer's witnesses questions can be tricky. Usually, they will say something that hurts your case, so you probably will not feel very friendly toward them. But regardless of how you feel, be polite. It will hurt your case with the Appeal Examiner if you are rude. Usually, the only questions you should ask the employer or employer's witnesses are about helpful facts that they left out when they testified. Facts helpful to you might be that you had a good job evaluation, a good attendance record, a good production record, or the like.

Sometimes witnesses lie. If there are documents that show the witness has lied, call them to the Appeal Examiner's and witness's attention. If you cannot prove the lie, do not prod the witness. The witness probably will not change his or her story. The best thing to do is to tell the Appeal Tribunal where you disagree and why.

### **Issue switching**

Sometimes employers bring up a new issue or problem, different from what they told the Department earlier. This is called "issue switching" and is not allowed.

**Example:** You are fired and the Department includes a misconduct penalty in your benefits determination. You appeal. In your file, you see that when the claims examiner called the employer, the employer said that you were fired for insubordination in an argument with your supervisor. The supervisor told you to drive a truck that you thought was unsafe, and you refused. You prepare your case to show why you thought the truck was unsafe and take a witness to show that even though you argued and refused to drive the truck, you were not malicious or out of line with your duty to your employer. You argue that your actions don't fit the definition of "misconduct." Your supervisor comes and testifies that you were not fired for refusing to drive the truck but for stealing. He starts to testify that he saw you putting some of the employer's property into your car. Ask the Appeal Examiner to stop all testimony about the supposed theft since the employer did not mention it before. If the employer wanted to raise the issue of theft, he needed to do it before the hearing so that you could prepare to address the issue. Since he did not raise the subject before, he should not be allowed to do it now. The hearing on your refusal to drive the truck should proceed. The stealing should not be brought up. If the Appeal Examiner wants to go ahead and talk about the stealing

issue, ask for an adjournment (postponement) so that you can prepare to respond to the new issue.

### Answering questions

During the hearing, the Appeal Examiner may ask either you or the employer questions. Answering questions is an important part of the hearing. Listen carefully to the questions. Do not interrupt the Appeal Examiner, even if you think you know what he or she is going to ask. If you want to say something, wait until the Appeal Examiner finishes a sentence and ask if you can speak. Some things to keep in mind at the hearing are listed below.

1. *Tell the truth.* This is very important. You will give testimony (tell your story). Probably, the Appeal Examiner will ask you questions. You must answer the questions truthfully. If you do not tell the truth, then nothing you say later will be believed.

2. *Prove what you need to prove, and only that.* Think about what the law says you need to show in order to get unemployment benefits. Look at your notice of determination. It tells you the legal and factual reason you were denied benefits. Why is it wrong? Decide what you need to tell the Appeal Examiner. Say what you need to say, and leave out everything else. Extra, unnecessary information is confusing and time consuming.

3. *Make the story clear.* Tell the Appeal Examiner things in the order that they happened. Talk about the first event first. Then discuss what happened next. It is confusing for the Appeal Examiner and for you to talk about things out of order.

4. *Do not try to answer a question you cannot answer.* Often the Appeal Examiner will ask you questions about what happened at your job. If you do not understand a question, say that you do not understand. If you do not know the answer to a question, say that you do not know. If you can't remember the answer to a question, say that you cannot remember. You may be asked about things that happened a long time ago. The Appeal Examiner knows that people sometimes forget things. *Do not guess.* It may cause problems later if you guess and your guess turns out to be wrong.

5. *Once you answer a question, stop.* Don't feel that you have to keep talking just because the questioner waits before asking you another question. Answer briefly and clearly, and wait for the next question.

6. *Don't worry about being confused.* If you are caught in a contradiction, do not worry. Sometimes people remember things that they forgot before. This happens to everyone. Answer according to what you

remember to be the truth as you recall it now. Explain, if you can, why you were mistaken in your earlier answer.

7. *Do not get angry.* If a question or something the employer says upsets you, take a deep breath and stay calm. The questioner may be trying to make you angry. Do not allow it to happen. Correct an incorrect statement calmly when it is your turn to speak.

8. *Don't try to please the questioner.* Do not say something just because you think it is what the Appeal Examiner wants to hear. Tell the truth, not what you think you are supposed to say.

9. *Notice your appearance.* How you sit and look affect how you come across to the Appeal Examiner. Sit up or stand straight, and look the Appeal Examiner in the eye when you speak. Use your appearance to look open and willing to answer questions.

10. *Be careful about your language.* Do not swear or make ethnic, bigoted, or slur remarks. These will make you and your case look bad.

11. *Do not beg.* Do not plead with the Appeal Examiner. The facts will speak for themselves. Begging does not work.

The Appeal Examiner will tell you when the hearing is about to end and ask if you have anything more to say. You can ask for a minute to look over your notes to make sure that you have said everything you need to say. If you forgot something, tell the Appeal Examiner you have something you would like to add. Often, a short closing statement can be helpful, but it is not necessary. A closing statement is a summary of what you would like the Appeal Examiner to decide. If you make a closing statement, you can briefly summarize the facts that make you eligible for benefits, and apply the facts to the law. It is polite to thank the Appeal Examiner for his or her time.

**Example:** You have seen that I did not quit my job. I testified today that I went to work thinking I still had my job. Bob Jones, a witness from my job, testified that I showed up at work thinking I was still employed. In order for my actions to be considered a quit, the law says a worker has to intend to quit. I did not intend to quit, as shown by my acts and testimony. Therefore, I am eligible for unemployment benefits according to the law. Thank you.

The Appeal Examiner will write a decision shortly after the hearing and send it to you, the employer, and the local unemployment office.

If you, your employer, or the unemployment office disagree with the decision, it can be appealed to the Board of Review. If an appeal is filed, it will be based on what you and the employer said and any exhibits presented during your hearing. This is called the *record* of your hearing. You should listen to the tape recording of the testimony

before you write your appeal. The exhibits are in your file, which you should look at again.

If it turns out that there is something else important that you did not say or present at the hearing, you will have to write to the Board of Review to ask permission to add to (“supplement”) the record. You will have to explain why you didn’t present the information at the hearing when you had the chance. If you did not have the information then, or if you could not have known that it would be important, or if you have some other good reason, the Board may agree to look at your new evidence.

If you or your employer appeal a Board of Review decision, the case will go to court. The testimony from the tape recording will be typed out into a transcript.

## *Chapter 5*

# **Overpayments, Suspected Fraud, and Requests for Refunds**

After you have received unemployment benefits, the Department may decide that you were not eligible for the benefits you received. Sometimes the Department finds a mistake in its calculations, meaning that you received too much money, or it decides that you were not eligible for unemployment under the law. The Department will ask you to return any money you received that you should not have received.

If this is the case, you will receive a written notice of overpayment.<sup>132</sup> If the notice is correct and you were indeed overpaid, you can call the Department to arrange a repayment plan. If you do not arrange to repay the money, the Department may take steps to collect the money, by taking your future state tax refunds or homestead rebates, taking future unemployment benefits, or by getting a money judgment against you in court.<sup>133</sup>

If you apply for unemployment in the future and still have money to repay, the Department will offset (subtract) the money you owe from your new claim for benefits. The Department will not pay any new benefits until it collects all of the money you owe. However, if you were overpaid because the Department made a mistake, it should take only half of your weekly benefits to offset the overpayment.

If you believe you were not overpaid or that you were overpaid due to a mistake made by the Department, you should file a written appeal within 10 days after you receive the first notice of overpayment. Instructions on how to appeal should be on the notice you receive advising you of the overpayment. You may receive the notice of overpayment at a time when you are working and not thinking about applying for unemployment benefits. You should still appeal immediately, or you may lose unemployment benefits if you need them later.

In some cases, you can request that the Department not make you pay back an overpayment. This is called a waiver. By requesting a waiver, you are asking that the Department forgive the overpayment. You can do this in two situations: (1) when you are permanently disabled and (2) when the Department knows that you were eligible.

If you are permanently disabled, you may not have to repay the money if you did not hold back information from the Department or give it information you knew was false. You can file for a waiver at your local unemployment office.

At one time, the Department thought it could only give waivers when a person was permanently disabled. However, in a case decided in 1991, called *Hopkins v. Board of Review*,<sup>134</sup> the court made clear that the Department can give waivers in other cases, also. In *Hopkins*, the Department knew that Ms. Hopkins was eligible for unemployment benefits but still wanted her to repay the money because her appeal was late. That court said that she did not have to repay.

If you think there is a good reason why you should not have to repay money to the Department (such as the Department knowing that you were eligible for unemployment benefits), file a request for a waiver. The Department does not have any rules to decide when to waive an overpayment and probably is not processing many waivers. If it denies your request for a waiver, appeal, and mention the *Hopkins* case at your hearing.

If you get a Request for Refund based on an earlier decision that you appealed and lost, then generally you cannot get another hearing. If there is new evidence that you could not have brought up earlier, or an obvious mistake, that may be a basis for a new appeal. If you got a notice of overpayment before, but did not appeal for a good reason, you can try arguing that you should be given the chance to do so now.<sup>135</sup> It would be helpful to talk to a lawyer in this situation.

Employers send the Department reports listing all of their workers and their Social Security numbers. The Department uses its computers to see if anyone is getting wages and unemployment benefits at the same time. When the Department suspects that you were working and receiving benefits at the same time, it sends you a notice stating that there is a wage-benefit conflict. You can ask for a hearing.

The Department will try to make you repay any benefits that you should not have received. It can also refer cases to other authorities for criminal prosecution.<sup>136</sup> If you are convicted in a criminal case, you could be fined or jailed.<sup>137</sup> Because this is so serious, you should see a lawyer before you meet with the Department of Labor if you are charged with fraud. Do not sign any Department forms about the suspected fraud until you get legal advice. Anything you say to the Department of Labor, or any forms that you sign, can be used against you in a criminal case.

## Chapter 6

# Helpful Information

## How to find more information about unemployment benefits

You can read the laws on unemployment benefits. Every county courthouse has a law library that you may use. You can also check your public library.

You should first look up the law in the statutes passed by the New Jersey Legislature. State laws (called “statutes”) on unemployment are in *New Jersey Statutes Annotated* (N.J.S.A.), a set of green books. Look in volume 43, chapter 21. The statutes set forth the most general guidelines on unemployment benefits. After the statute, you will find a list of court decisions that interpret and explain the statute. The cases are listed by a specific topic. These cases may be helpful if they are similar to your own legal problem.

The second step is to look up the law in the New Jersey regulations. Regulations are rules made by the Department of Labor and other state agencies and are in blue loose-leaf notebooks called *New Jersey Administrative Code* (N.J.A.C.). Unemployment regulations are in Title 12 at chapters 15 through 22. Regulations may set forth more specific rules than statutes. After the regulation, you will find a list of court decisions that interpret and explain the regulation and statute. These cases may be helpful if they are similar to your own legal problem.

There are also federal statutes on unemployment. They are in dark red books called *United States Code Annotated* (U.S.C.A.). You can find federal unemployment laws in volume 42 of the U.S.C.A.

Federal regulations about unemployment are in Title 20 of the *Code of Federal Regulations* (C.F.R.), a set of paperback volumes that are a different color each year. Regulations on unemployment are in chapters IV and V. These rules may be helpful to you if you worked for the federal government, including the post office, or if you lost your job due to the North American Free Trade Act.

If you need help finding these books, ask the librarian. The endnotes in this handbook make many references to the laws.

Some Legal Services offices help unemployed workers with unemployment claims. So do many unions. Other community organizations may also be able to help or offer advice.

## Local unemployment offices in New Jersey

| One-Stop Office | To Claim Benefits                   | For Claim Information               | Reemployment Call Center |
|-----------------|-------------------------------------|-------------------------------------|--------------------------|
| Atlantic City   | (609) 441-7581                      | (609) 441-3300                      | Vineland                 |
| Bayonne         | (201) 217-4602                      | (201) 795-8707                      | Union City               |
| Bloomfield      | (973) 680-3518                      | (973) 748-4800                      | Union City               |
| Bridgeton       | (856) 453-3925                      | (856) 453-3910                      | Vineland                 |
| Burlington      | (609) 386-1541                      | (609) 386-6403                      | Vineland                 |
| Camden          | (856) 614-3801                      | (856) 614-3833                      | Vineland                 |
| Dover           | (973) 328-6490                      | (973) 361-9055                      | Freehold                 |
| Elizabeth       | (908) 820-3969                      | (908) 820-3150                      | Freehold                 |
| Englewood       | (201) 541-0798                      | (201) 568-9282                      | Union City               |
| Flemington      | (908) 859-5467 or<br>(908) 704-3366 | (908) 859-3320 or<br>(908) 704-3006 | Freehold                 |
| Hackensack      | (201) 996-8021                      | (201) 996-8940                      | Union City               |
| Hammonton       | (609) 561-1485                      | (609) 561-7800                      | Vineland                 |
| Jersey City     | (201) 217-4602                      | (201) 795-8707                      | Union City               |
| Morristown      | (973) 631-6272                      | (973) 631-6331                      | Freehold                 |
| Neptune         | (732) 775-5131                      | (732) 775-7970                      | Freehold                 |
| New Brunswick   | (732) 937-4525                      | (732) 937-6260                      | Freehold                 |
| Newark          | (973) 648-7601                      | (973) 648-2429                      | Union City               |
| Newton          | (973) 383-4432                      | (973) 383-7653                      | Freehold                 |
| Passaic         | (973) 458-6724                      | (973) 916-2630                      | Union City               |
| Paterson        | (973) 977-4307                      | (973) 977-4300                      | Union City               |
| Perth Amboy     | (732) 293-0011                      | (732) 761-2020                      | Freehold                 |
| Phillipsburg    | (908) 859-5467                      | (908) 859-3320                      | Freehold                 |
| Plainfield      | (908) 412-7779                      | (908) 412-7951                      | Freehold                 |
| Salem           | (856) 935-6289                      | (856) 935-3711                      | Vineland                 |
| Somerville      | (908) 704-3366                      | (908) 704-3006                      | Freehold                 |
| Thorofare       | (856) 853-4177                      | (856) 384-3754                      | Vineland                 |
| Toms River      | (732) 286-6460                      | (732) 286-5639                      | Freehold                 |
| Trenton         | (609) 292-6800                      | (609) 292-0695                      | Freehold                 |
| Vineland        | (856) 696-6591                      | (856) 696-6565                      | Vineland                 |
| Wildwood        | (609) 729-0873                      | (609) 729-0664                      | Vineland                 |

## Obtaining unemployment claim information

Telephone calls about unemployment claims are handled by a computerized system. This system is able to answer *specific* claim information such as:

- What was the date and amount of your latest check?
- What is the balance on your claim?
- What was the total amount of benefits paid to you during a particular tax year?

The system also can answer *general* unemployment questions such as:

- How do you file an unemployment claim?
- How much money did you have to earn in order to qualify for unemployment benefits?
- What is the most amount of money you can collect on an unemployment claim?

To receive specific information about your unemployment claim, call the claim information number listed next to your local office on page 60, Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. To receive general information about unemployment, you may call the claims information number listed next to your local office on page 60, 24 hours a day, seven days a week.

## How to find more information about other employment laws

### Worker health and safety issues

You may have left your job or been fired because your employer was acting illegally, improperly, or unsafely. There are agencies set up to deal with employers who violate the law. If you think that your employer has acted in violation of the law, you may want to contact one or more of these agencies to report the violations.

Occupational Health Service  
New Jersey Department of Health  
P.O. Box 360  
Trenton, NJ 08625-0360  
(609) 984-1863

Workplace Health Fund  
815 16th Street, N.W.  
Suite 301  
Washington, D.C. 20006  
(202) 637-5200

Occupational Safety and Health Administration  
U.S. Department of Labor, Region II  
201 Varick Street, Room 670  
New York, NY 10014  
(212) 337-2378  
(call for branch offices in New Jersey)

National Institute of Occupational Safety and Health  
(NIOSH)  
Toll-free: 1-800-35-NIOSH (1-800-356-4674)

### **Employment discrimination**

You may have left your job because your employer discriminated against you due to your race, sex, religion, national origin, or sexual orientation. If you think you have been discriminated against for one of these reasons, you may want to contact any of the following agencies to investigate whether or not your employer may have acted illegally.

Division on Civil Rights  
New Jersey Department of Law and Public Safety  
140 East Front Street  
Trenton, NJ 08625  
(609) 292-4605  
(call for branch offices and pamphlet)

Central Jersey Work Force  
954 Yard Avenue  
Second Floor  
Trenton, NJ 08625  
(609) 292-8879

The federal Equal Employment Opportunity Commission (EEOC) has toll-free numbers to call for information about employment discrimination: 1-800- 669-4000 to speak with a counselor and 1-800-669-3362 for publications.

State Equal Opportunity Officer  
P.O. Box 945  
Trenton, NJ 08625-0945  
(609) 292-7022

### **Wage and hour violations**

Your employer may not have paid you for work you have done or may not have paid you overtime to which you were entitled. If you think your employer may have held back wages that were due to you, you may contact the following agencies to see if you have a wage and hour claim against your employer.

Office of Wage and Hour Compliance  
New Jersey Department of Labor  
Division of Workplace Standards  
P.O. Box 054  
Trenton, NJ 08625  
(609) 292-2337

U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division

Northern NJ District Office  
200 Sheffield  
Room 102  
Mountainside, NJ 07092  
(973) 645-2279

Southern NJ District Office  
3131 Princeton Pike  
Building 5, Room 216  
Lawrenceville, NJ 08648  
(609) 989-2247

## Other

If you were injured on the job, you may be required to file a workers' compensation claim before proceeding with a temporary disability claim or an unemployment claim. You should contact:

Division of Workers' Compensation  
New Jersey Department of Labor  
P.O. Box 381  
Trenton, NJ 08625  
(609) 292-2515

## Useful Web sites

### **New Jersey Department of Labor Division of Workers' Compensation**

<http://www.state.nj.us/labor/wc/Default.htm>

### **New Jersey Court Opinions**

<http://lawlibrary.rutgers.edu/search.shtml>

### **New Jersey Department of Labor, Division of Unemployment Insurance**

<http://www.state.nj.us/labor/uiex/main2.htm>

### **Legal Services of New Jersey**

<http://www.lsnj.org>

### **U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division**

[http://www.dol.gov/dol/esa/public/whd\\_org.htm](http://www.dol.gov/dol/esa/public/whd_org.htm)

# Endnotes

## Preface

1 This is an endnote.

## Introduction

2 *N.J.S.A. 43:21-2.*

3 *Sporn v. Celebrity, Inc.*, 129 *N.J. Super.* 449 (App. Div. 1974) (the unemployment benefits law is to be “liberally construed in order to further its remedial and beneficent purposes.”); *N.J.S.A. 43:21-2* describing the purpose of the unemployment laws: “[E]conomic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state.... The achievement of social security requires protection against this greatest hazard of our economic life.”

4 *N.J.S.A. 43:21-7.*

## Chapter 1: Who Is Eligible for Unemployment Benefits?

5 *N.J.S.A. 43:21-4(e).*

6 *N.J.S.A. 43:21-4(e)(2)(A).*

7 *N.J.A.C. 12:15-1.5.*

8 *N.J.A.C. 12:15-1.6(a); N.J.S.A. 43:21-4(e)(2)(B).*

9 *N.J.S.A. 43:21-4(e)(3)(C).*

10 Independent contractors are not covered since they do not meet the definition of “employment” in *N.J.S.A. 43:21-19(i)(6)*. The largest employer that is not covered is the federal (United States) government. However, federal government employees can apply to the federal unemployment plan for unemployment benefits.

11 This definition of “base year” appears at *N.J.S.A. 43:21-19(c)*. A claimant who does not qualify for benefits using the first four of the most recent five completed calendar quarters can qualify by using the most recent four completed calendar quarters. If he or she still doesn’t qualify, he or she can use the most recent three completed calendar quarters and the current calendar quarter up to the date in which the claim is filed. *N.J.A.C. 12:17-5.2, Alternative Base Years.*

12 *N.J.S.A. 43:21-19 (c) (1).*

13 42 *U.S.C. §503(a).*

14 *Cal. Dep’t of Human Resources Dev. v. Java*, 402 *U.S.* 121, 136 (1971). The Supreme Court said Congress’ goal in setting up the unemployment benefit system was to get “money into the pocket of the unemployed worker at the earliest point that is administratively feasible.”

15 *N.J.S.A. 43:21-5(a).*

16 *N.J.S.A. 43:21-5(j); N.J.A.C. 12:17-9.11.*

17 *Pagan v. Bd. of Review*, 296 *N.J. Super.* 539 (App. Div. 1997).

18 *Domenico v. Bd. of Review*, 192 *N.J. Super.* 284 (App. Div. 1983) (fear of harm from psychiatric hospital patients was reasonable after claimant had been assaulted twice, and was a good, work-related reason to quit). *N.J.A.C. 12:17-9.4.*

19 *N.J.S.A. 34:6A-1 et seq.*

20 *N.J.S.A. 34:6A-3.*

- 21 29 C.F.R. § 1903.1 *et seq.*
- 22 *Israel v. Bally's Park Place*, 283 N.J. Super. 1 (App. Div. 1995 (recovering alcoholic who resigned, due to presence of alcohol at work, aggravated the disease and, therefore, left for good cause); *Wojcik v. Bd. of Review*, 58 N.J. 341, 344 (1971) (aggravation of a preexisting condition is good cause for quitting work); *Brown v. Bd. of Review*, 117 N.J. Super. 399 (App. Div. 1971) (case sent back to Department for determination whether job as hair stylist so aggravated worker's preexisting diabetic condition as to be good, work-related reason for quitting).
- 23 N.J.S.A. 34:15-51.
- 24 *Inside Radio/Radio Only, Inc. v. Bd. of Review*, 204 N.J. Super. 296 (App. Div. 1985) which has similar facts.
- 25 *Wojcik v. Bd. of Review*, 58 N.J. 341 (1971), a case in which the facts were similar to those in the example.
- 26 N.J.S.A. 10:5-1 *et seq.*
- 27 42 U.S.C. § 2000(e) *et seq.*
- 28 29 U.S.C. § 621 *et seq.*
- 29 *Doering v. Bd. of Review*, 203 N.J. Super. 241 (App. Div. 1985).
- 30 *Assoc. Utility Service Inc. v. Bd. of Review*, 131 N.J. Super. 584 (App. Div. 1974) (supervisor's intentional harassment of worker created intolerable and abnormal working conditions and worker had good cause to quit).
- 31 *Condo v. Bd. of Review*, 158 N.J. Super. 172, 175 (App. Div. 1978) (when coworker threatened he would physically harm employee, and employee was afraid and complained to manager, he had good cause for leaving).
- 32 *Johns-Manville Products v. Bd. of Review*, 122 N.J. Super. 366 (App. Div. 1973).
- 33 *Sanchez v. Bd. of Review*, 206 N.J. Super. 617, 621 (App. Div. 1986).
- 34 *DeSantis v. Bd. of Review*, 149 N.J. Super. 35, 38 (App. Div. 1977).
- 35 N.J.S.A. 34:11-56a *et seq.*
- 36 29 U.S.C. § 207 *et seq.*
- 37 *Hobbie v. Unemployment Appeals Comm'n*, 480 U.S. 136 (1987) (a state cannot deny benefits to claimants who become unemployed due to religious beliefs because such denial burdens the right to free exercise of religion). A new law, the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.* (2000) says the government cannot "substantially burden" a person's exercise of religion even if the burden results from a general rule affecting everyone, such as a rule against smoking peyote (which burdened a Native American's exercise of his religion). The government is allowed to interfere with religious exercise only when it uses the least restrictive means to further a compelling government interest; *Frazee v. Ill. Dep't of Employment Sec.*, 489 U.S. 829 (1989); *Sherbert v. Verner*, 374 U.S. 398 (1963).
- 38 *Self v. Bd. of Review*, 91 N.J. 453 (1982); N.J.A.C. 12:17-9.1(e).
- 39 *Savastano v. Bd. or Review*, 99 N.J. Super. 397 (App. Div. 1968).
- 40 *Domenico v. Bd. of Review*, 192 N.J. Super. 284, 288 (App. Div. 1983).
- 41 N.J.S.A. 43:21-5(a).

- 42 The law says:  
 “If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the ‘New Jersey Code of Criminal Justice,’ *N.J.S. 2C:1-1 et seq.*, the individual shall be disqualified ... and no benefit rights shall accrue....” *N.J.S.A. 43:21-5(b)*.  
 See also *N.J.A.C. 12:17-10.1(c)*.
- 43 *N.J.S.A. 43:21-5*.
- 44 *Beaunit Mills v. Bd. of Review*, 43 *N.J. Super.* 172 (1957). The court continued:  
 Misconduct cannot mean “mere mistakes, errors in judgment or in the exercise of discretion, or minor but casual or unintentional carelessness or negligence and similar peccadilloes. It cannot mean mere inefficiency, unsatisfactory conduct, failure of performance as the result of inability or incapacity, inadvertence in isolated instances or good faith errors of judgment.”  
 Not only must there be a disregard of duty, but such breach must be a material breach; otherwise it is not the kind of behavior which the worker should have expected to lead to his dismissal. Thus mere mistakes, errors in judgment or in the exercise of discretion, minor or unintentional carelessness or negligence, and similar minor insignificant acts do not constitute misconduct.  
 See also *N.J.A.C. 12:17-10.2(a)*.
- 45 *Demech v. Bd. of Review*, 167 *N.J. Super.* 35.
- 46 *N.J.A.C. 12:17-10.2(c)*.
- 47 *Connell v. Bd. of Review*, 216 *N.J. Super.* 403 (App. Div. 1987) (although police officer was off-duty when involved in an accident killing another, this was misconduct connected with his work because a police officer is considered “on duty” all the time).
- 48 *N.J.A.C. 12:17-10.4*; ***N.J.A.C. 12:17-10.2(a)***.
- 49 *Yardville Supply Co. v. Bd. of Review*, 114 *N.J.* 371 (1989); *N.J.A.C. 12:17-9.9*.
- 50 *Savastano v. Bd. of Review*, 99 *N.J. Super.* 397 (App. Div. 1968).
- 51 *N.J.A.C. 12:17-9.10*.
- 52 *Self v. Bd. of Review*, 91 *N.J.* 453 (1982).  
 See also *N.J.A.C. 12:17-9.1(e)*
- 53 *Bateman v. Bd. of Review*, 163 *N.J. Super.* 518 (App. Div. 1978).
- 54 *Rolka v. Bd. of Review*, 162 *N.J. Super.* 1 (App. Div. 2000).
- 55 *Yardville Supply Co. v. Bd. of Review*, 114 *N.J.* 371, 377 (1989) (“Where it is reasonably foreseeable that an employee’s voluntary conduct will render him unemployable, and his actions actually do lead to the loss of a prerequisite of employment, the employee leaves work voluntarily without good cause attributable to such work...”); *N.J.A.C. 12:17-9.9*.
- 56 *N.J.A.C. 12:17-9.6*.
- 57 *N.J.S.A. 43:21-4*; *N.J.A.C. 12:17:4.1 et seq.*; *N.J.A.C. 12:17:11.1 et seq.*
- 58 *N.J.A.C. 12:17-4.1(b)*.
- 59 *N.J.S.A. 43:21-4(c)*.

- 60 *Guidice v. Bd. of Review*, 14 N.J. Super. 335, 338-39 (App. Div. 1955) (“greater effort to obtain work and less insistence on his own terms is required after a while...”); *Tung Sol Elec. Co. v. Bd. of Review*, 35 N.J. Super. 397, 404 (App. Div. 1955) (where restrictions on availability are “absolutely compelled” claimant need not extend her limitations after a reasonable time).
- 61 N.J.S.A. 43:21-4(c)(4); 43:21-5(i).
- 62 *Hopkins v. Bd. of Review*, 249 N.J. Super. 84 (App. Div. 1991).
- 63 N.J.S.A. 43:21-20.1.
- 64 N.J.S.A. 43:21-20.1.
- 65 *Rolka v. Bd. of Review*, 332 N.J. Super. 1 (App. Div. 2000).
- 66 *Tung Sol Electric Inc. v. Bd. of Review*, 34 N.J. Super. 349 (App. Div. 1955) Note that courts’ attitudes toward expectations that mothers stay at home to care for children have changed in recent years.
- 67 N.J.S.A. 43:21-4(f).
- 68 N.J.S.A. 43:21-4(f)(1)(A).
- 69 N.J.S.A. 43:21-26 *et seq.*
- 70 N.J.S.A. 43:21-39(b).
- 71 N.J.S.A. 43:21-39(d).
- 72 N.J.S.A. 43:21-30 (temporary disability); N.J.S.A. 43:21-4(f)(1)(D) (disability during unemployment).
- 73 N.J.S.A. 43:21-39(f) (temporary disability benefits); N.J.S.A. 43:21-4(f)(1)(C).
- 74 N.J.A.C. 12:17-5.6.
- 75 N.J.S.A. 34:15-1 *et seq.*
- 76 *Pinilla v. Bd. of Review*, 155 N.J. Super. 307 (App. Div. 1978). This case was decided before employment restrictions went into effect. Though it probably was wrongly decided in 1978, it probably will be more persuasive at present.
- 77 8 C.F.R. § 274a.12(a).
- 78 8 C.F.R. § 274a.12(c).
- 79 N.J.S.A. 43:21-5(c). The law disqualifies you from benefits for “the week in which the failure [to accept suitable work] occurred and for the three weeks which immediately follow that week ....”
- See also N.J.A.C. 12:17-11.
- 80 N.J.S.A. 43:21-5(c)(2)(a)-(c).
- 81 N.J.A.C. 12:17-9.8.
- 82 *Wojcik v. Bd. of Review*, 58 N.J. 341 (1971) (workers should not be penalized for trying out work that turns out to be unsuitable).
- 83 *Eastern Airlines v. Dep’t of Labor*, 246 N.J. Super. 523, 529 (App. Div. 1991) (flight attendants did not reject suitable work where distance to other work would constitute a genuine hardship, time and expense).
- 84 N.J.S.A. 43:21-5(a).
- 85 N.J.A.C. 12:17-8.6(a).

- 86 N.J.A.C. 12:17-8.7(b).
- 87 N.J.A.C. 12:17-8.10(c).
- 88 N.J.A.C. 12:17-8.10(c).
- 89 N.J.A.C. 12:17-8.8(a).
- 90 N.J.S.A. 43:21-4(i); *Brambila v. Bd. of Review*, 124 N.J. 425 (1991) (applying an unlawful presence test).
- 91 *Brambila v. Bd. of Review*, 124 N.J. 425, 432 (1991).
- 92 26 U.S.C. § 3304(a)(9)(B) requires all states to cooperate. Wages earned in different states may be counted toward fulfilling prior earning requirements in another state.
- 93 N.J.A.C. 12:17-16.1.
- 94 N.J.S.A. 43:21-5(d).
- 95 N.J.S.A. 43:21-5(d)(1), (2).
- 96 N.J.S.A. 43:21-5(g)(1).
- 97 N.J.S.A. 43:21-5(g)(2).

## **Chapter 2: How Much Money Will I Get?**

- 98 N.J.S.A. 43:21-4(d).
- 99 N.J.A.C. 12:15-1.2.
- 100 N.J.S.A. 43:21-3(c)(2).
- 101 N.J.S.A. 43:21-3(c)(2)(A).
- 102 N.J.S.A. 43:21-3(d)(2).
- 103 N.J.S.A. 43:21-3(d).
- 104 N.J.A.C. 12:17-6.2(b).
- 105 N.J.S.A. 43:21-5a.
- 106 N.J.S.A. 43:21-5a; N.J.A.C. 12:17-8.2(a)(2).
- 107 N.J.S.A. 43:21-5a; N.J.A.C. 12:17-8.2(a)(3).
- 108 N.J.A.C. 12:17-8.2(a)(4).
- 109 N.J.S.A. 43:21-5a; N.J.A.C. 12:17-8.3.
- 110 N.J.A.C. 12:17-8.4(c).

## **Chapter 3: How to Apply for Unemployment Benefits and Appeal Denials**

- 111 N.J.S.A. 43:21-6(b)(1).
- 112 N.J.S.A. 43:21-17(b).
- 113 N.J.S.A. 43:21-6(e).
- 114 N.J.S.A. 43:21-6(h).
- 115 New Jersey Court Rule 2:7 (regarding appeals by indigent persons).
- 116 New Jersey Court Rule 2:5-3 (regarding requests for preparation of the transcript of proceedings).
- 117 *Rivera v. Bd. of Review*, 127 N.J. 578 (1992).

- 118 N.J.A.C. 12:20-3.1(d) (appeals to Appeal Tribunals); N.J.A.C. 12:20-4.1(c) (appeals to Board of Review).
- 119 N.J.A.C. 12:20-3.1(a), (b).
- 120 N.J.A.C. 12:20-3.1(c) (appeals to Appeal Tribunals); N.J.A.C. 12:20-4.1(b) (appeals to Board of Review).

#### **Chapter 4: Your Appeal Tribunal Hearing**

- 121 N.J.A.C. 12:20-3.1(f).
- 122 N.J.S.A. 43:21-17(b); N.J.A.C. 12:20 App. 1:12-5.1.
- 123 The rule on adjournment of hearings says:  
The appeal tribunal shall use their best judgment as to when adjournments of hearing shall be granted in order to secure all facts that are necessary and to be fair to the parties.  
N.J.A.C. 12:20 Appendix 1:12-9.3(b).
- 124 The rules on telephone hearings apply to hearings before both Appeal Examiners and the Board of Review. N.J.A.C. 12:20 App. 1:12-14.5, 14.6.
- 125 N.J.A.C. 12:20 App. 1:12-14.6(d).
- 126 N.J.A.C. 12:20 App. 1:12-14.5(c).
- 127 N.J.A.C. 12:20 App. 1:12-14.5(b)(2).
- 128 N.J.A.C. 12:20 App. 1:12-14.5(e).
- 129 N.J.A.C. 12:20 App. 1:12-14.5(f).
- 130 N.J.S.A. 43:21-11(g). the statute says, in part:  
“All records, reports and other information obtained from employers and employees under this chapter, except to the extent necessary for the proper administration of this chapter, shall be confidential and shall not be published or open to public inspection other than to public employees in the performance of their public duties, and shall not be subject to subpoena or admissible in evidence in any civil action or proceeding other than one arising under this chapter ....”
- 131 N.J.A.C. 12:20 App. 1:12-14.4.

#### **Chapter 5: Overpayments, Suspected Fraud, and Requests for Refunds**

- 132 N.J.S.A. 43:21-16(d).
- 133 N.J.S.A. 43:21-16(d).
- 134 *Hopkins v. Bd. of Review*, 249 N.J. Super. 84 (App. Div. 1991).
- 135 *Reid v. Dep't of Labor*, 164 N.J. Super. 350 (App. Div. 1978); *Rivera v. Bd. of Review*, 127 N.J. 578 (1992).
- 136 N.J.S.A. 43:21-5(g)(2).
- 137 In addition to criminal penalties for fraud, see a law effective 1992 allowing fines and imprisonment for making false statements, withholding material facts, and intending to defraud the Division of Employment Security, N.J.S.A. 43:21-55.

# New Jersey Legal Services Programs

## State Coordinating Program

Legal Services of New Jersey  
100 Metroplex Drive, Suite 402  
Edison, New Jersey 08818  
(732) 572-9100  
[www.lsnj.org](http://www.lsnj.org)  
E-mail: [lsnj@lsnj.org](mailto:lsnj@lsnj.org)

LSNJ-LAW™ toll-free statewide legal hotline: 1-888-576-5529

## Local Legal Services Programs

Bergen County Legal Services  
61 Kansas Street  
Hackensack, NJ 07601  
(201) 487-2166

Middlesex County Legal Services  
78 New Street, 3<sup>rd</sup> Floor Rear  
New Brunswick, NJ 08901  
(732) 249-7600

Camden Regional Legal Services  
745 Market Street  
Camden, NJ 08102  
1-800-496-4570  
(central intake)

Legal Aid Society of Morris County  
30 Schuyler Place, 2<sup>nd</sup> Floor  
P.O. Box 900  
Morristown, NJ 07963-0900  
(973) 285-6911

Cape-Atlantic Legal Services  
26 South Pennsylvania Avenue  
Atlantic City, NJ 08401  
(609) 348-4200

Ocean-Monmouth Legal Services  
9 Robbins Street, Suite 2A  
Toms River, NJ 08753  
(732) 341-2727

Essex-Newark Legal Services  
5 Commerce Street, 2<sup>nd</sup> Floor  
Newark, NJ 07102  
(973) 624-4500

Passaic County Legal Aid Society  
175 Market Street  
Paterson, NJ 07505  
(973) 345-7171

Hudson County Legal Services  
574 Summit Avenue  
Jersey City, NJ 07306  
(201) 792-6363

Somerset Sussex Legal Services  
78 Grove Street  
Somerville, NJ 08876  
(908) 231-0840

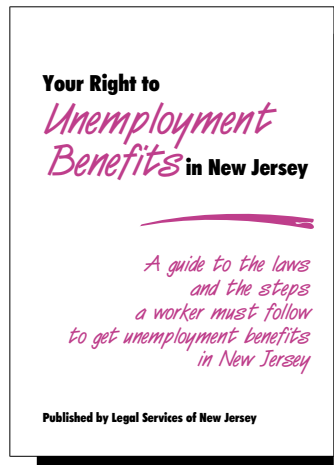
Hunterdon County Legal Service  
82 Park Avenue  
Flemington, NJ 08822  
(908) 782-7979

Union County Legal Services  
60 Prince Street  
Elizabeth, NJ 07208  
(908) 354-4340

Legal Aid Society of Mercer County  
198 West State Street  
Trenton, NJ 08608  
(609) 695-6249

Warren County Legal Services  
91 Front Street, P.O. Box 65  
Belvidere, NJ 07823  
(908) 475-2010

# Order Form



- Please send \_\_\_ copies of *Your Right to Unemployment Benefits in New Jersey* at \$15.00 per copy, which includes postage. Enclosed is a check/money order for \$ \_\_\_\_\_ payable to Legal Services of New Jersey.
- Please put me on your mailing list to receive information about Legal Services of New Jersey's publications.

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Legal Services of New Jersey  
P.O. Box 1357  
Edison, NJ 08818-1357

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My e-mail address is: \_\_\_\_\_.