
Unemployment Insurance Update

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UI Will Call

- Allows those expected to wait for more than 2 minutes to opt out of the call and receive a call back
- Will improve service for the state's 680,000 unemployment insurance recipients
- The DOL's Telephone Claims Centers receive up to 60,000 calls in a given week
- This is more than double the volume from two years ago
- Will lead to a decrease in customer wait time and repeat calls and save the Dept of Labor an estimated \$370,000 a year in phone bills

Unemployment Insurance Fraud

- A few months ago, the Department held a press event in Syracuse to announce that 2009 was a record year in the fight against Unemployment Insurance (UI) Fraud. New York's crusade against UI fraud saved businesses across the state more than \$35 million in 2009.
- Word is getting around that DOL is working with prosecutors and law enforcement agencies to crack down on these offenses and arrest people for these serious crimes.
- Since January, we've received a number of tips from employers related to UI fraud. The Department is currently investigating these tips, which could amount to more than \$100,000 returned to New York's UI Trust Fund.
- New Yorkers who heard our announcement also took the hint.
- In fact, two people recently came forward fearing their own arrests related to UI Fraud. They immediately paid back the stolen funds and put tens of thousands of dollars back in the UI system.
- To report UI Fraud, call 1-888-598-2077

Shared Work

- Gives employers an alternative to layoffs
- An employer can reduce the hours of all or a select group of employees
- Those workers can collect partial UI benefits to make up for lost wages
- Allows a company in the Shared Work Program to keep skilled & trained workers
- Allows employees to maintain their health insurance and other fringe benefits
- To apply call: (518) 457-5807

Shared Work Statewide Totals

<u>Year</u>	<u>Firms</u>	<u>Jobs Saved</u>
2007	293	1564
2008	483	2064
2009	2251	11000

Emergency Unemployment Compensation

- UI benefits stimulate local economies
- During the current recession, in addition to regular Unemployment Insurance Benefits, the Labor Department has paid out over \$5.8 billion in other UI extension related benefits to workers who have lost their jobs.
- These payments are critical, allowing New Yorkers to pay their rent, buy food and provide for their families. They also act as their own economic stimulus. For every dollar spent in unemployment benefits, it puts an additional \$1.64 into the economy.

NYS DOL Employer Home Page

- New York State employers who are registered with the Unemployment Insurance Division can access this application. You will need the Federal Employer Identification Number (FEIN) and Employer Registration Number (ER#) assigned to your entity to access this application.
- **Access information on your account:**
- View your profile information
- View your active addresses
- Look up UI tax rates assigned for the current and the three previous tax rate years
- Obtain additional information pertaining to your NYS Unemployment Insurance account information using the links on the Helpful Information page.
- www.labor.ny.gov


File via EFile

- You can now file Form NYS-45, Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return, electronically through the Department of Taxation and Finance's Online Tax Center.

Online Services for Businesses - Windows Internet Explorer
 http://www.tax.state.ny.us/online/bus.htm

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Online Services for Businesses


 New York State
Department of Taxation and Finance

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Online Services for Businesses


Create an online account and login to:

- Save money on New York State tax debts with the Penalty and Interest Discount Program
- Web File and pay sales tax, withholding tax, corporation tax extensions, unemployment insurance, wage reporting, Metropolitan Commuter Transportation Mobility Tax, and beverage container reports
- View and pay tax bills (all tax types)
- Change your business address/phone number
- File New York State annual information returns
- Use tax preparer registration - upload only

Maintenance times:

- Daily - Account creation is unavailable from 4 a.m. to 6 a.m.
- Sundays - Services may be unavailable from 7 p.m. to 11 p.m.

- [Learn more](#)
- [Watch demos](#)



Tools

You don't need an account to use these tools.

Businesses

- [Sales tax jurisdiction and rate lookup](#)
- [Sales tax on utilities jurisdiction and rate lookup](#)
- [Withholding tax jurisdiction lookup](#)
- [PrompTax](#)
- [ETA e-file](#)
- [Corporate tax issuer's allocation percentage inquiry](#)
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- [OSCAR - One Stop Credentialing and Registration for motor carriers](#)
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General

- [Penalty and interest calculator](#)
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How does a person qualify for weekly payments?

- Must have earnings in at least two calendar quarters in the base period
- Highest quarter must be minimum of \$1600
- Total Base Period wages must equal 1 ½ times the high quarter wages

What is the base period?

- **BASIC:** The first four of the last five completed calendar quarters prior to the calendar quarter in which the claim begins; or
- **ALTERNATE:** The first four completed calendar quarters immediately prior to the calendar quarter in which the claim begins

How does a person maintain eligibility for weekly UI payments?

- Must be totally unemployed for any day they are seeking credit
- Must be ready, willing and able to work
- Each day of work or a day that a person is not available or capable of work reduces the weekly payment by one quarter
- Must be actively seeking work

Voluntary Quit

- In 2009 Section 593.1 of the UI Law was amended to include reasons that constitute good cause to include any compelling family reason such as:
 - Fear for safety to self or other family members due to domestic violence situations
 - Care for a disabled relative for a period longer than the employer can grant leave
 - Following a spouse who obtains employment outside of a reasonable commuting distance

Voluntary Quit Continued

- The amendment to Section 593.1 of the UI Law did not expand the NYS program in any way
- It merely codified what the Department of Labor was already doing through case law interpretation
- It still must be considered a compelling reason to be eligible for UI benefits
- Personal reasons are not considered compelling

Misconduct

UI Law Section 593.3

- “No days of total unemployment shall be deemed to occur after a claimant lost employment through misconduct in connection with his or her employment....”
- Misconduct” is not defined in the statute. However, the Court of Appeals, in Matter of James, states misconduct is any volitional act or omission which is detrimental to an employer’s interests.

Normally Not Considered Misconduct

- Mere inefficiency,
- Inadequate performance resulting from inability or incapability,
- Inadvertence or ordinary negligence in isolated instances,
- Good faith errors in judgment

Refusal

- Section 593.2 : “No days of total unemployment shall be deemed to occur beginning on the day on which a claimant, without good cause, refuses an offer of employment for which he is reasonable fitted by training and experience.
- No refusal to accept employment shall be deemed without good cause...if,”
- would interfere with union membership or violate a collective bargaining agreement,
- There is a strike, lockout or other industrial controversy in the establishment,
- The offered work is an unreasonable distance
- Wages, compensation, hours or conditions offered are substantially less favorable to the claimant than those prevailing for similar work in the locality
- The claimant is seeking part-time work as provided in subdivision five of section five hundred ninety-six of this title and the offer of employment is not comparable to his or her part-time work as defined in such subdivision. (New amendment 2009)

Prevailing Wage

- In the Matter of Marsh: “refusal is with good cause if the offered wages are more than 10% below a prevailing rate established on the basis of a weighted average of the wages received by the middle 50% of workers in the occupation.”

Determining the “Prevailing Wage”

- HIGH wage: \$12.00 per hour
- MIDDLE wage: \$10.00 per hour
- LOW wage: \$ 8.00 per hour

A claimant would NOT have good cause to refuse (based on wages) at \$9.00 per hour and up.

What Happens When a Former Employee Files a Claim?

- FORM LO 400 is sent to each employer in the base period
- It is a notice of monetary entitlement and potential charges
- It is made up of two sections plus the heading.

LO 400 Part 1

- Gives the effective date of the claim
- The benefit year ending date
- Total base period wages
- Benefit rate
- Maximum amount allowed
- Wages paid by the employer
- Employer's potential charges

LO 400 Part 2

- Area to comment on any reason known by the employer why the claimant should not be paid UI benefits such as:
- Separation information (Misconduct or Voluntary Quit)
- Industrial Controversy (Strike)
- Claimant is receiving a pension funded by the employer
- Receipt of Holiday or Vacation Pay
- Employee of an educational institution between academic terms or breaks

What needs to be done?

- The LO 400 needs to be returned immediately **only** if there are changes to be made in the wages paid (Part1) or if you feel the claimant should not be paid UI benefits (Part 2)
- If you return the LO400, give specific reasons
- FAX REPLY TO (518) 485-1600 OR
- MAIL TO P.O. BOX 15130 ALBANY NY 12212-5130
- TELEPHONE (888) 890-5090 (Employer dedicated line)

The Determination Process

- The Dept of Labor will make a determination on a claimant's eligibility based on fact finding from all parties (including 3rd parties)
- Determinations are made with the best available information
- Please respond to written correspondence and phone calls from Dept of Labor representatives
- Please give accurate and specific information including any documentation that you feel will prove the claimant should not be eligible to receive UI benefits

What if I disagree with the outcome?

- Any party adversely affected by a determination has the right to request a hearing before an Administrative Law Judge (ALJ)
- The hearing request must be received 30 days from the initial determination to be considered timely
- ALJ decisions can be appealed to the New York State Unemployment Insurance Appeal Board.
- ALJ decisions must be appealed to the NYS UI Appeal Board within 20 days of the decision
- Appeal Board decisions can be appealed to the Appellate Division of the State Supreme Court.

Any Questions?

