



TIPS FOR DOMESTIC VIOLENCE VICTIMS SEEKING UNEMPLOYMENT BENEFITS

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Are you a victim of domestic violence, sexual assault, or stalking? Is it affecting your ability to do your job? Are you thinking about – or have you already – quit your job because of the violence? Or were you fired because of the violence?

If you have left or lost a job because of domestic or sexual violence, you may be eligible for unemployment insurance (UI) benefits. These are cash benefits that partially replace your salary, so you can pay your bills while you look for a new job. This guide is designed to provide practical tips to help you claim unemployment insurance benefits. (This guide focuses on domestic violence because many of the relevant state laws cover domestic violence but not sexual assault or stalking. There are, however, a few states that also explicitly make benefits available to survivors of sexual assault or stalking.)

For more general information about claiming UI benefits, contact your local legal aid or legal services office, or try on line at www.lawhelp.org, a website that provides free legal information on a variety of topics for most states.

- 1) Apply for unemployment insurance benefits, even if you are not sure whether you will qualify. In most states, it's very easy to apply. Sometimes you can do it over the phone. Apply as soon as you can after you lose or leave your job. You may apply for welfare benefits (TANF) or food stamps at the same time. Although you may not be able to receive benefits under all of these programs at the same time, getting all of the applications started can help ensure you don't need to wait for other benefits if you are turned down for UI.
- 2) Learn whether your state has a law that specifically makes benefits available to survivors of domestic violence. More than half of the states have such laws. (If you have moved away from state where you were working, generally you are covered by the law in the state where you worked, not the law in the state where you are now living.) To see if your state has a law, you can check Legal Momentum's "State Law Guide: Unemployment Insurance," which is available on the internet at www.legalmomentum.org or by phone at 212-925-6635. This guide has links to the actual state laws. Even if your state does not have this type of law, you may still want to explain how the domestic or sexual violence related to your leaving work in your claim for benefits.
- 3) If your state has a law that helps domestic violence survivors collect UI, look to see what it says:
 - *Are there specific documentation requirements to "prove" you are a victim?* Many states will accept your own sworn statement or a written statement from a shelter worker, counselor, or other professional who may have helped you address the violent situation;

some states require a police report, protective order or medical evidence. If the law does not specify, think about what kind of evidence you can use to establish you are a victim.

- *Does the law specify how the domestic violence must be connected to your decision to leave the job for you to receive benefits?* For example, some states require that you show that you were afraid of future violence at the workplace or being attacked on your way to or from work.
- *Does the law require that you make “reasonable efforts” to maintain your job before quitting?* If so, you might need to show that you asked your employer for accommodations like a transfer to a different location or a leave of absence. If you are in a state with a requirement like this and you did not take such steps before quitting, you should still apply for benefits but be prepared to explain why you did not ask your employer for help or how you knew it would be useless to try.
- *Does the law require that you be “ready and able” to accept new work?* Consider whether you will be able to meet this requirement.
- *What else does the law require?* This fact sheet focuses on the domestic violence requirements, but you will probably need to provide pay stubs or other documentation showing how much you worked before you filed your claim.

- 4) After you apply, a representative of the unemployment insurance office will usually set up a time for you to come in for an interview or do a phone interview. In your interview, explain clearly how the domestic violence related to your leaving the job. Sometimes the agency representative will not know about state’s law making benefits available to domestic violence survivors or will not think to ask you about domestic violence. You should bring this information up yourself if your state has a relevant law; it may be helpful to bring it up even if your state does not have a law. If you were fired from a job for a reason related to domestic violence (for example, absences related to going to court), be prepared to explain the connection.
- 5) Be specific about what happened, when it happened, and why you believed it would continue unless you quit your job. Did the abuser know where you worked? Did this pose a safety threat? Were you being stalked on your way to or from work? Were you being harassed or threatened at work? Was your employer aware of the situation? Did they do anything? Did you ask your employer for help? What happened? Did you seek a protective order? If so, did you call the police if the abuser violated the protective order by contacting you at work? (Be aware that although many states do not require that individuals claiming UI benefits have obtained a protective order, you are likely to be asked about whether you did, and if not, why not. Be prepared to answer this question.) Make sure to show why it was not your fault you left your job.
- 6) Keep copies of everything that you send or give to the UI office.
- 7) Make sure to keep your address on file with the UI office up to date. This can be especially difficult for victims of domestic violence who may need to move frequently to maintain their safety, but it is very important that you can receive mail regarding your claim. Be aware, however, that your file, including your address, will be shown to your employer. If this will jeopardize your safety, talk to the claims officer about how you may be able to keep this information confidential. If you are staying in a shelter, talk to shelter staff to see what address you should use. If you use a post office box, make sure to check your box regularly.

- 8) If you are denied benefits at first, appeal the decision. In most states, you must file the request for an appeal very quickly (often just 10 – 20 days). The letter you receive denying benefits should include instructions on how to appeal.
- 9) Continue to certify that you are looking for work even while your appeal request is pending.
- 10) Generally, if you file an appeal, you will have a right to tell your story again at a hearing before an Administrative Law Judge. Before the hearing, ask to review your file so that you know what your employer is saying about why you lost your job.
- 11) If there is going to be a hearing, practice how you will tell your story and bring documentation that establishes that you were a victim of domestic violence as well as relevant documentation about your work history. Bring multiple copies of any documents you plan to use in the hearing. Speak to other potential witnesses and see if they will come to testify or if they can testify by phone. This could include individuals who may have helped you address the violence. (This can be particularly important if you did not obtain a protective order and that has become an issue in the case.) Your employer will also have a chance to tell its side of the story. You should be able to ask your employer questions.
- 12) Continue to certify that you are looking for work even while you are waiting for a decision on your appeal.

What else can help me understand my rights?

Legal Momentum has two other guides that can help you understand how to claim unemployment insurance benefits. One is “Know Your Rights: Eligibility for Unemployment Insurance Benefits” -- this describes the unemployment process and eligibility for survivors of abuse more generally. The other is “State Law Guide: Unemployment Insurance” – this will tell you if your state has a specific law addressing eligibility of survivors. Both are available on our website at www.legalmomentum.org or by phone at 212-925-6635. You can also contact us with questions by phone or by email at peo@legalmomentum.org.

If you are still working and need time off to address the violence, you may be able to take such time under a variety of federal or state laws. If you feel that you were unjustly fired from your job because of discrimination related to the domestic or sexual violence, you may have other legal claims you could consider. Legal Momentum has fact sheets on a variety of employment rights for survivors on our website at www.legalmomentum.org or by phone at 212-925-6635.