



# CENTRAL VIRGINIA LEGAL AID SOCIETY

[www.cvlas.org](http://www.cvlas.org)

101 W. Broad St., Suite #101  
Richmond, Virginia 23220  
804-648-1012 or 800-868-1012  
Fax: 804-649-8794

229 North Sycamore Street  
Petersburg, Virginia 23803  
804-862-1100 or 800-868-1012  
Fax: 804-861-4311

103 E Water St, Suite 201/202  
Charlottesville, Virginia 22902  
434-296-8851 or 800-390-9983  
Fax: 434-296-5731

## Unemployment Compensation - 2023

Unemployment compensation is a state program to help workers who are unemployed through no fault of their own. The program is designed to assist workers temporarily between jobs. Workers do not get benefits unless they have enough recent earnings and actively look for work. It is run by the Virginia Employment Commission (VEC).

### How much work must I have done to get unemployment compensation?

You must have earned at least \$3,000 in wages in the two highest “calendar quarters” in a recent one-year period called the “base period.” A calendar quarter is any of these three-month periods: January through March, April through June, July through September, and October through December. Usually, your base period is the first four of the last five completed calendar quarters. Using this rule, this is how you figure your base period.

If you apply in:

Your base period is:

January - March, this year.

January - Sept, last year, and Oct - Dec previous year.

April - June, this year.

January - Dec, last year.

July - Sept, this year.

January - March, this year, and April - Dec, last year.

Oct - Dec, this year.

January - June this year, and July - Dec, last year.

### What if I have worked only recently?

If you don't have enough earnings in the first four of the last five completed calendar quarters, your base period is the last four completed calendar quarters. Using this rule, this is how you figure your base period.

If you apply in:

Your base period is:

January - March, this year.

January - Dec, last year.

April - June, this year.

January - March, this year, and April - Dec, last year.

July - Sept, this year.

January - June this year, and July - Dec, last year

Oct - Dec, this year.

January - Sept, this year and Oct - Dec, last year.

### What are the other rules to get unemployment compensation?

- You must be unemployed. You are unemployed if you're not working and not earning

any money. You are partially unemployed if you're working less than full time and earning less money than your weekly unemployment compensation would be.

- You must file your claim for unemployment compensation and report to the VEC field office as directed.

- You must report all work and money as you earn it.
- You must be able to work and available for work.
- You must register for work at the VEC field office.
- You must make an active search for work each week.
- You must report all job offers and job referrals.
- You must not be on strike, on vacation, or retired.
- You must wait for one week after you apply.

### **What is meant by an active search for work?**

Unless you usually get work through a labor union or have been approved for a resume job search, you must apply in person for work. For each employer you contact, you must give the VEC the following things.

- The date you contacted the employer.
- The name, address, and phone of the employer.
- The name and title of the person you contacted.
- The type of work or position for which you applied.
- The results of your contact.

### **Are there reasons I may be denied unemployment compensation?**

You can't get unemployment compensation if you quit your job without good cause, if you're discharged for work-related misconduct, or if you don't apply for or accept suitable work. Any of these reasons will keep you from getting unemployment compensation.

### **What is a voluntary quit without good cause?**

If you left your last job without being fired or laid off, and you did this without a good reason, you can't get unemployment compensation. You must prove you had a good reason for quitting. A good reason might be that the job was a risk to your health or safety, or you were physically or mentally unable to do the job. You also must prove you made all reasonable efforts to solve the problem and keep your job before you quit.

If you're asked to resign from your job instead of being fired, that is not a voluntary quit. The VEC should treat that as a discharge, and decide if you committed work-related misconduct.

### **What is a discharge for work-related misconduct?**

If you are fired from your last job because of your misconduct in connection with your work, you can't get unemployment compensation. Your former employer must prove you were discharged for misconduct. Misconduct means you intentionally violated an employer's rule

designed to protect your employer's interests, or you willfully disregarded the interests and duties you owed your employer. To prove these intentional acts, your employer usually must show you knew the employer's policies, you had been warned, you knew you risked losing your job, and you kept violating the policies.

### **What is a failure to apply for or accept suitable work?**

If the VEC orders you to apply for or accept work, and you fail to do this without a good reason, you can't get unemployment compensation. You must prove you had a good reason for not applying for or accepting work. The VEC looks at many things in deciding if your work is suitable. These include your prior work history, your physical and mental fitness for the work, any risk to your health, safety or morals, and the distance from your home.

### **What happens if I'm disqualified from unemployment compensation?**

If you're disqualified, you can't get unemployment compensation until you get another job, work at it for at least 30 days for one employer & lose the job through no fault of your own.

### **For how long can I get unemployment compensation?**

You can get unemployment compensation for anywhere between 12 and 26 weeks. The number of weeks depends on your prior earnings. You also may get it for more weeks if you are eligible for extensions. Your benefits can be between \$60 and \$378 per week. The amount of your benefits also depends on your prior earnings.

### **What are the steps in an unemployment compensation case?**

There are four steps in an unemployment compensation case. These are the Deputy's Decision, a hearing before an Appeals Examiner, the commission review before a Special Examiner, and an appeal to state Circuit Court. The VEC must give you a written decision at each step. You can appeal a denial at each step. You must do this within 30 days of the date of the decision. You may be represented by anyone you choose at any step, except you must have a lawyer to go to Court.

### **What needs to happen to get unemployment compensation?**

To actually receive unemployment compensation, at least six things must happen:

1. You must file an initial application.
2. You must file a weekly claim each week after that.
3. Earnings on a weekly claim must be no greater than what your weekly benefits would be plus \$50.
4. You must have enough earnings in your base period – as shown on your Statement of Wages and Potential Benefit Entitlement - Unemployment Insurance
5. You must be found eligible – that is, able to work & available for work.
6. You must be found qualified – that is, you lost work due to no fault of yours.

After you apply for unemployment compensation, the VEC issues a Statement of Wages and Potential Benefit Entitlement - Unemployment Insurance. This is not a decision that you are entitled, eligible, or qualified for unemployment compensation. This is only an initial finding of possible weekly benefit amount and possible number of weeks.

If the VEC determines you have enough recent earnings, the VEC determines if you are eligible and are qualified. Eligible means you are able to work. This means you have the physical and mental ability to perform some substantial, saleable service on a full time basis.

Eligible also means you are available for work. This means you are willing to accept any suitable work which may be offered without attaching unusual restrictions or conditions.

If the VEC determines you are eligible, the VEC determines if you are qualified. The VEC looks back at your work history and finds the last employer for whom you worked 30 days or more. The VEC also looks forward from that employer to see if you subsequently worked for an employer for less than 30 days. The VEC sends the 30-day employer and the less than 30-day employer (if any), a Report of Separation. To be qualified, you must have lost all these jobs through no fault of yours.

If your former employer returns the Report of Separation, it might dispute if you should get benefits. This is called “an issue on the case.” When there is an issue on the case, the VEC will pay no benefits until the issue is decided by a Claims Deputy.

If a Deputy Decision says “qualified,” you get benefits. However, the former employer has 30 days to appeal. If the Deputy’s Decision says “ineligible” or “disqualified,” you do not get benefits. However, you have 30 days to appeal from the date this Deputy Decision was mailed to get an appeal hearing. If you believe the Decision is wrong, you should appeal. Instructions how to do this are on the back of the Notice under the heading “Appeal Rights.”

Throughout this entire process, you must continue to file weekly claims. You must do this even if you are denied benefits at any step. Usually, you enter weekly claims on Sunday, Monday, or Tuesday for the prior week of unemployment. You do not get benefits for any week unless you file a weekly claim for them.

You have 28 days from the end of a week (Saturday) to file a weekly claim. If you do not file a weekly claim for more than 28 days, the VEC will close your claim. This means filing weekly claims is very important.

### **How can I best handle problems during the claims process?**

The best way to handle problems during the claims process is to go in person to your local VEC office with all of your VEC papers and documents showing your identity. Ask to speak with an Unemployment Insurance Specialist. If the Unemployment Insurance Specialist is not helpful, ask to speak with that person’s Supervisor. If the Supervisor is not helpful, ask to speak with the Branch Manager of the local VEC office. The VEC says that one of these people should be able to resolve almost problems right then and there.

You also should take careful and detailed notes. You should write down dates, times, places, and the names all of the VEC people you speak with in person. If your problem is not resolved, you should seek help from legal aid or a private attorney – without delay.

### **What happens at the Deputy's Decision?**

Once you file a claim for benefits, your former employer files a Report of Separation. This tells why you no longer work for them. After that, a Deputy does fact finding interview. Usually the Deputy sends Fact-Finding Statements to be completed and returned. Occasionally the Deputy will call and gather facts by telephone. The Deputy then issues a written decision.

### **What happens at the Appeals Examiner?**

The party who loses the Deputy's Decision has 30 days to file a written appeal. This appeal is a hearing before an Appeals Examiner. Unless you make a written request for an in-person hearing, your hearing before the Appeals Examiner will be by telephone. In general, it is better to have an in-person hearing rather than a telephone hearing.

At the hearing, the Appeals Examiner will put into the record the documents that were before the Deputy. The Appeals Examiner questions the employer and its witnesses first. You or your attorney has a chance to question the employer and its witnesses. The Appeals Examiner then questions you and your witnesses. Your attorney also may ask questions. Your former employer has a chance to question you and your witnesses. Both parties get a chance to put other documents into the record. Both sides get to make a brief closing statement. The Appeals Examiner then issues a written decision in a week or two.

### **What happens at the Special Examiner?**

The party who loses the Appeals Examiner's Decision has 30 days to file a written appeal. This appeal is a review before a Special Examiner. There is no new hearing, evidence or testimony before the Special Examiner, unless there is a very good reason. Instead, the Special Examiner reviews the testimony and the documents put into the record by the Appeals Examiner.

If you want a copy of the transcript and the documents before the Appeals Examiner, and if you want to present oral or written argument before the Special Examiner, you must make a written request for this within 14 days of the Notice of Appeal that the VEC sends to the parties after the appeal is filed. If you do not ask for a chance to present argument, you will not be able to. After the argument and review of the record, the Special Examiner issues a written decision.

### **What happens at Circuit Court?**

The party who loses the Special Examiner's Decision has 30 days to file an appeal in Circuit Court. There is no new hearing, evidence or testimony in Circuit Court. Instead, the court reviews the record to see if the decision is supported by evidence and is legally correct.

## **What about overpayments of unemployment compensation?**

If the former employer does not return the Report of Separation in a few weeks, the VEC might start paying benefits. After that, the VEC might get the Report of Separation which might dispute if you should get benefits. When this happens, the VEC suspends benefits until the Deputy Decision. Benefits which are started before the return of the Report of Separation, then suspended, and then denied is the most common cause of an overpayment. There are three steps in an overpayment case. These are:

Step One: Entitlement Decision. This is a VEC decision of disqualification or ineligibility. This decided whether you were qualified or disqualified for benefits, or whether you were eligible or ineligible for benefits.

Step Two: Overpayment Decision. If the VEC decided you were not entitled to benefits, this decision will say you were overpaid any benefits received.

Step Three: Overpayment Waiver. If you submit this, the VEC can waive (or forgive) certain overpayments.

If you filed a timely appeal of an Entitlement Decision, that should stop any overpayment decision and any collection efforts until the Entitlement Decision is final. However, if you were not entitled to benefits and that decision is final, appealing the Overpayment Decision will not change the Entitlement Decision.

For any overpayment for weeks between March 15-21, 2020 and June 19-25, 2022, inclusive, the VEC will send an invitation to submit an overpayment waiver request. The VEC may waive an overpayment based on two factors:

First, were you without fault? An overpayment of benefits paid before a Deputy's Entitlement Decision can be waived. However, an overpayment of benefits paid after a Deputy's Entitlement Decision, which were reversed during the appeal process, cannot be waived

Second, would repaying the overpayment cut into money you need for basic necessities (food, shelter, childcare)?

## **Are there other types of unemployment compensation?**

- Disaster Unemployment Assistance (DUA). This provides benefits to workers unemployed due to a major disaster in their area.
- Extended Benefits (EB). This pays benefits after regular unemployment compensation has run out. This is in effect only during periods of high national or state unemployment levels.
- Unemployment Compensation for Federal Employees (UCFE). This provides benefits for workers who were employed as federal civilian employees during the base period.
- Unemployment Compensation for Ex-Service Members (UCX). This provides benefits for workers who were members of the U.S. Armed Forces during the base period.