

Domestic Violence, Sexual Assault & Employment: Unemployment Insurance If You Must Quit

YOUR LEGAL RIGHTS

Domestic violence and sexual assault survivors are often afraid of being harmed by an abuser, perpetrator of sexual assault or stalker while at work or are harmed at work by these individuals. In certain cases, the survivor may quit their job to protect themselves or their family from domestic violence or sexual assault and still be entitled to the receipt of unemployment insurance benefits.

1. What are Unemployment Insurance (UI) benefits?

UI benefits provide partial wage replacement to workers who are temporarily unemployed or who work part-time but have very low wages. UI benefits are only paid to workers who meet the eligibility criteria and who have lost work or wages through **“no fault of their own.”**

2. Who decides who gets UI benefits?

A state government agency called the **Employment Development Department (EDD)** makes the initial decision about whether a worker is eligible for UI benefits.

3. How do I apply for UI benefits?

You must file a claim with the EDD. Your claim may be filed by telephone, (800) 300-5616, or by going to the EDD’s website, <http://www.edd.cahwnet.gov/>. During your first telephone call you will be expected to give general information about your employment history and your separation from your most recent employer.

4. Can I quit my job yet still be eligible for unemployment insurance?

Under California law, a worker is eligible for unemployment insurance benefits only if the EDD decides that she quit her most recent job with **“good cause.”** The California Unemployment Insurance Appeals Board has defined “good cause” for quitting a job as: “a real, substantial, and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action.” This definition means that a worker must show a very good reason for quitting and convince the EDD that any reasonable person would quit under those conditions. **In California, a domestic violence survivor who quits her job to protect herself or her family from domestic violence abuse has “good cause” for leaving that job.**

5. Can I get unemployment benefits if I don't give my employer an opportunity to fix the problem?

Normally, no. To show you had “good cause” for quitting you normally have to first make an effort to keep your job. So, if you are being stalked, harassed, injured or threatened at work by an abuser, or if you are concerned about the safety of your children, you should first inform your employer of your situation and ask for a transfer, leave of absence, or workplace accommodation. If your employer refuses, or if these changes do not address your safety concerns (i.e., you must flee immediately), you may feel your only option is to quit.

6. What if I have more than one reason for quitting my job?

If a worker has several reasons for quitting her job, that worker is eligible for unemployment benefits if only one of the reasons is determined to be “good cause” **and** if that “good cause” reason was a *major* reason for quitting (i.e., not just something the employee brought up to try and get benefits).

7. How do I show proof of a “good cause” quit?

Under the law, the employee is presumed to have had “good cause” to quit unless, or until, the employer proves otherwise. It is likely, however, that you will be expected to show “good cause” for your decision to quit and to describe your efforts to preserve your employment.

To make the best presentation of the facts regarding a quit when claiming unemployment insurance, start by writing a detailed account of all the circumstances that led to your decision to quit. You should describe all of the ways you attempted to resolve the problems that led to your decision to quit, such as requests for meetings with management, leaves of absence, transfer, use of a grievance procedure, etc. Detail any complaints you made to management. If possible, include the number of times you complained, the approximate dates of your complaints, to whom the complaints were made, and what, if anything, happened as a result. You do not have to provide this written document to the EDD or a judge, but it should help you organize your thoughts. If your decision to quit arose out of a fear for your mental or physical health or safety, statements from treating professionals, such as a doctor or psychologist, are not necessary, but can be very helpful in proving that your concerns were genuine and well-founded.

8. What do I do if the EDD says I'm ineligible for UI benefits?

If the EDD denies your UI claim, you can appeal. Be sure not to miss the appeal deadline, which is 20 calendar days after you were mailed the denial. All you need to do to file an appeal is write a brief letter saying: “I disagree with your decision. I wish to appeal. Thank you.” Within 3-6 weeks you will be scheduled for an appeal hearing.

9. Where can I receive additional help in understanding this process or to learn if I am eligible for unemployment insurance benefits?

Contact the **Domestic Violence and Employment Project** of the Legal Aid Society – Employment Law Center **toll-free at (888) 864-8335**. Our advocates may be able to represent you at your appeal hearing or help guide you through the appeal process yourself.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society - Employment Law Center cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

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For further information about your employment rights, call:

The SURVIVE Project

(888) 864-8335 Toll-free in California (415) 593-0033 Outside California

The SURVIVE Project is a Project of the Legal Aid Society – Employment Law Center, a non-profit organization focusing on the employment-related legal rights of low-income workers and providing free legal information on a wide range of employment-related problems.

