



# Unemployment Insurance Benefits Handbook

FOR INDIVIDUALS FILING FOR UNEMPLOYMENT BENEFITS

2014

[WWW.DWS.STATE.NM.US](http://WWW.DWS.STATE.NM.US)

NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS

# How to Access the Unemployment Insurance Program

## Online Access:

You can access your Unemployment Insurance (UI) claim and information online through the New Mexico Workforce Connection online system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us).

All individuals who apply for unemployment benefits online must first log into the New Mexico Workforce Connection Online System ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)). It is through [www.jobs.state.nm.us](http://www.jobs.state.nm.us) that claimants access the Unemployment Insurance Tax & Claims system. Unemployment Insurance claimants will be required to maintain separate usernames and passwords for **both** the online jobs system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)) and the Unemployment Insurance Tax & Claims system.

Computers are available at your local New Mexico Workforce Connection Centers and local libraries. Our Unemployment Insurance Tax & Claims system is available to take initial claims and weekly requests for benefits/weekly certifications from **4:00 a.m. to 9:00 p.m. Sunday through Friday**. Please allow at least 30 minutes to file an online claim or certifying for your weekly requests for benefits prior to system down time.

## UI Operations Center:

You can contact a Customer Service Agent in the Unemployment Insurance (UI) Operations Center via the toll-free number, 1-877-NM-4-MYUI (1-877-664-6984). Our UI Operations Center is open from 8:00 a.m. - 4:30 p.m., Monday - Friday. English and Spanish-speaking Customer Service Agents are available to assist you in filing your claim, following up, and submitting weekly request for benefits/weekly certifications.

## **READ THIS HANDBOOK CAREFULLY, AND REFER TO IT AS NEEDED.**

- If you change your address or move to another town or state, you are required to update your address when you log into the Unemployment Insurance (UI) Tax & Claims System available through the New Mexico Workforce Connection system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)) or by calling the UI Operations Center at 1-877-664-6984, Monday through Friday from 8:00 a.m. to 4:30 p.m. Your Unemployment Insurance benefit payments may be delayed if we do NOT have your correct address. You may also miss time-sensitive documents and forfeit your right to appeal adverse decisions if you fail to maintain current contact information with us.
- You must report any wages earned, or employment performed, when you are filing a claim for benefits or a weekly request for benefits/weekly certification. Failure to report earnings or employment performed may subject you to fraud penalties
- IF YOU RETURN TO WORK and report earnings equal to or more than your weekly benefit amount, you should stop filing your weekly request for benefits/weekly certifications. If you separate from this employment, you must file an application for benefits on an existing claim or file a brand new claim.
- If you are working less than full-time and earning less than your weekly benefit amount, you may be eligible to file a claim for partial benefits.
- When filing your claim for Unemployment Insurance benefits, you must create an account with the New Mexico Workforce Connection system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) within 14 days of filing your claim.
- If you are requesting to certify for your weekly benefits, you are required to report your work search contacts at the time that you certify. Unless exempted by the department, you are required to make a minimum of two different work search contacts every week to qualify for benefits. You will need to report the date of your contact information (such as a phone number or web address), and what was the result of your contact. Please have this information readily available at the time you certify o your benefits may be delayed.
- Not a U.S. Citizen? We can pay benefits only to U.S. citizens and noncitizens working legally in the United States. If you are not a citizen, we must verify your work authorization number with the United States Citizenship and Immigration Services (USCIS). If you worked here illegally, we cannot use your wages to calculate benefits.

## Table of Contents

New Mexico Workforce Connection: Help for Job Seekers .....	.6
Unemployment Insurance Fraud Warning .....	7
What is Unemployment Insurance Fraud?.....	7
Examples of Unemployment Insurance Fraud .....	7
What are the consequences? .....	7
The Basics – Frequently Asked Questions .....	8
What Is Unemployment Insurance?.....	9
Applying for Unemployment Benefits.....	10
Filing a New Claim .....	10
Return to Work Date .....	11
Pensions & 401K Plans.....	11
Eligibility for Benefits.....	12
1. Based Period Wages - Monetary Eligibility .....	12
Base Period.....	12
Alternate Base Period (ABP).....	13
Benefit Year .....	13
Covered Employment .....	13
Work Authorization .....	14
2. Separation from Your Job(s) - Non-Monetary Eligibility .....	14
3. Able and Available to Work .....	14
4. Work Search Requirements.....	15
5. Suitable Work Requirements .....	15
Additional Information about Unemployment Benefits .....	17
Dependent Allowance (DA) .....	17
Labor Dispute (Strike, Work Stoppage or Lockout).....	17
Child Support Payments .....	17
Union Members.....	17

Cancellation of Your Claim .....	18
Income Tax and Federal Withholding.....	18
Jury Duty.....	18
Deductions for Pensions, Annuities or Retirement Pay .....	18
Deductions for Wages in Lieu of Notice, Holiday or Vacation Pay.....	19
If You Were Employed by an Educational Institution.....	19
When to Reopen Your Claim .....	20
Appealing a Decision .....	21
Appeal Hearings.....	21
Higher Authority and District Court.....	21
Making a Weekly Request for Benefits/Weekly Certification.....	23
Working and Receiving Benefits.....	23
Payment Options.....	25
Special Unemployment Insurance Programs .....	26
Ex-Military (UCX) .....	26
Unemployment Compensation for Federal Employees (UCFE) .....	27
Trade Adjustment Assistance .....	27
Combined Wage Claim .....	28
Overpayments and Fraud .....	29
Overpayments .....	29
Repayment of Benefits .....	29
Penalties and Prosecution .....	30
Treasury Offset Program .....	30
Privacy and Confidentiality.....	31

## New Mexico Workforce Connection: Help for Job Seekers

New Mexico Workforce Connection, a statewide network of career centers, can help you:

- Find great jobs;
- Write job-winning résumés;
- Ace your job interviews; and
- Find opportunities for training.



New Mexico Workforce Connection Centers put you in front of the right employers with the right jobs. Visit a center to take advantage of free job search services. To find the nearest New Mexico Workforce Connection Center, visit [www.dws.state.nm.us](http://www.dws.state.nm.us) and click on “Office Locations” in the top, right-hand corner of the site. You can also visit the New Mexico Workforce Connection online system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) for access to virtual job matching services, employment resources, and much more.

Visit your Workforce Solutions office for:

- **Computers** - Use the computers to complete your weekly work searches, search for New Mexico jobs, and connect to nationwide job banks.
- **Job Resources** – Take advantage of internet access, telephones, printers, fax machines, local newspapers, and other resources.
- **Job Search Assistance** – Receive career counseling and job search training, advice on writing résumés, job preparation, and interviewing skills from workforce professionals.
- **Job Fairs, Workshops, and Labor Market Info** - Check out job fairs in your local area and explore local labor market information to find employers who are hiring.
- **New Mexico Workforce Solutions Publications and Brochures** - Pick up free brochures and publications on unemployment benefits, wage information for job seekers, employment projections, and more.
- **Approved Training Opportunities** - If you meet the requirements for approved training, the New Mexico Department of Workforce Solutions may exempt you from work search requirements while you receive benefits. Speak with New Mexico Workforce Connection staff to find out if your desired training meets the requirements.

# Unemployment Insurance Fraud Warning

## What is Unemployment Insurance Fraud?

Unemployment Insurance (UI) is a safety net program that provides temporary income support to qualified unemployed workers who have lost their job through no fault of their own. Everyone who collects UI benefits is legally responsible for making sure they meet and follow eligibility requirements as set by New Mexico state law. It is a crime to intentionally provide false information about your salary or work history, or to knowingly collect UI benefits based on inaccurate information.

UI fraud costs everyone money. It drives up UI taxes for businesses, impacts honest people with legitimate jobless claims, and puts a strain on New Mexico's unemployment trust fund.

## Examples of Unemployment Insurance Fraud

- An individual returns to work but continues to collect UI benefits.
- An individual works a part-time job but does not report his or her earnings to the state, thereby collecting more benefits than he or she is allowed.
- An individual performs temporary work while collecting UI benefits but does not report the earnings when filing his or her weekly claim.
- An individual holds back information or gives false information to the New Mexico Department of Workforce Solutions.



## What are the consequences?

People who commit UI fraud face serious penalties, including:

- Prosecution by government authorities
- Possible jail or prison sentences
- Liens placed on property
- Forced repayment of improperly collected UI benefits plus substantial penalties and fines
- Garnishment of wages
- Forfeiture of future income tax refunds
- Ineligibility to collect UI benefits in the future

If you think you may have committed UI fraud, call the New Mexico Department of Workforce Solutions immediately at 1-877-664-6984. A Customer Service Agent will listen to you and help you address the issue.

# The Basics – Frequently Asked Questions

## **Q. I lost my job. What do I do now?**

To start looking for another job, register as a job seeker at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) or at your local New Mexico Workforce Connection Center. Creating an account and registering in the New Mexico Workforce Connection system is required within 14 days of your initial claim for Unemployment Insurance benefits. Also, unless the New Mexico Department of Workforce Solutions exempts you from work search activities, you must complete at least two work searches each week to receive benefits.

## **Q. Will I get unemployment benefits?**

Not everyone who applies gets benefits. We review your past wages and investigate why you are no longer working to determine whether we can pay you benefits. You can appeal a decision denying your benefits.

## **Q. How do I request benefit payments/certify weekly?**

Request payment online in the Unemployment Insurance Tax & Claims system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) or call 1-877-664-6984 and follow the prompts. For assistance in Spanish, call 1-877-664-6984.

## **Q. Why will I not receive payment my first week?**

The first eligible week of each new claim is a “waiting week”. You will not receive benefits for this week; however, you must continue to certify to receive credit for your waiting week. You must meet the same eligibility requirements for a waiting week as you would for a payable week.

## **Q. How can I check my claim status?**

Check your claim status and payment history at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) in the Unemployment Insurance Tax & Claims system or contact a Customer Service Agent in the UI Operations Center at 1-877-664-6984, Monday through Friday from 8:00 a.m. to 4:30 a.m.

## **Q. What can I do online?**

Go to [www.jobs.state.nm.us](http://www.jobs.state.nm.us) to request benefit payments, select your payment option, view claim and payment status, check your appeal status, and more.

## **Q. How do I stop my claim?**

When you return to full-time work, stop requesting benefit payment/certifying weekly. If you return to work in the middle of a week, report any earnings you made for the week you started work on your weekly request for benefits/weekly certification.

## **Q. How do I report earnings?**

You must report your earnings for the week you earned the money in, not the week you were paid. For example, if you worked 10 hours from Sunday through Saturday that week, and your hourly wage is \$10.00 per hour, you would report \$100 for that week you worked. You may get paid for that week at a later point, but you must report the earnings when you worked and not when you were paid.

## **Q. Did I pay unemployment taxes when I was working?**

No. In New Mexico, employers pay for your benefits. It is against the law for employers to deduct unemployment taxes from your wages.

## Your Rights and Responsibilities

This handbook explains your rights and responsibilities under the New Mexico Unemployment Compensation Law. This information is very important to you because you will be paid unemployment benefits only if you meet the requirements of the law.

This handbook is not meant to be a legal document. The information in this handbook does not take the place of the statutes or the administrative regulations. It answers many of the questions you may have while filing your claim or certifying for your weekly benefits. You may have additional questions or there may be issues with your claim that are not covered in the handbook. For those questions and issues, you can contact a Customer Service Agent in the Unemployment Insurance Operations Center at 1-877-664-6984, Monday through Friday, 8 a.m. to 4:30 p.m. Customer Service Agents are available to assist you in English and Spanish.

## What Is Unemployment Insurance?

The Unemployment Insurance (UI) program pays benefits to people who are out of work through no fault of their own and who meet certain qualifications. It is an insurance program, and employers support this program 100% by making unemployment contributions to the state and federal governments. Employers who pay contributions or other payments for UI are called “Covered Employers.” The law prohibits an employer from deducting money from employees’ wages for Unemployment Insurance benefits.

By state and federal law, you may receive benefits only if you meet a series of legal eligibility requirements:

- You must be monetarily eligible.
- You must be totally or partially unemployed.
- You must have a non-disqualifying job separation; the law imposes a disqualification for certain types of separations.
- You must meet certain weekly legal requirements; weekly requirements include being able, available, and actively seeking work, and filing your weekly claim for benefits on a timely basis.
- If you are identified as likely to exhaust unemployment benefits and are enrolled in the worker profiling and reemployment services program, you must fully participate in all assessment interviews, orientation, and referred reemployment services.

# Applying for Unemployment Benefits

## Filing a New Claim

Unemployment Insurance (UI) claims are processed by the New Mexico Department of Workforce Solutions (NMDWS), and there are two ways to file for unemployment:

1. The online Unemployment Insurance Tax & Claims system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)).
2. The toll-free number 1-877-NM-4-MYUI (1-877-664-6984). Service in Spanish is available through the toll-free number.

**ONLINE:** You can file your new (initial) Unemployment Insurance (UI) claim online through the New Mexico Workforce Connection online system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us).

All individuals applying for unemployment benefits must first log into the New Mexico Workforce Connection Online System ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)). It is through the online Workforce Connection System ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)) that you will access the Unemployment Insurance Tax & Claims system. Unemployment Insurance claimants will be required to maintain separate usernames and passwords for **both** the online jobs system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)) and the Unemployment Insurance Tax & Claims system.

Computers are available at your local New Mexico Workforce Connection Centers and local libraries. Our Unemployment Insurance Tax & Claims system is available to take initial claims and weekly request for benefits/weekly certifications from 4:00 a.m. to 9:00 p.m. Sunday through Friday. Please allow at least 30 minutes to file an online claim prior to system down time.

**1-877-664-6984 TOLL-FREE TELEPHONE:** You can also file by phone by calling 1-877-NM-4-MYUI (1-877-664-6984). After following the automated prompts, your call will be transferred to a Customer Service Agent who will complete your claim. Our UI Operations Center is open from 8:00 a.m. - 4:30 p.m., Monday - Friday. The UI Operations Center offers services in English and Spanish.

Whether over the internet or by telephone, you will need the following information to file a new claim:

- Social Security Number (SSN)
- Mailing address and telephone number(s) of employer(s) you worked for in the last 18 months
- The starting and ending dates of your last job (or jobs if you had more than one employer in last 18 months)
- If you are a non-citizen, have your work authorization number and expiration date
- If you worked during the week you are filing your claim, be sure you know the gross amount (total dollars and cents before any deductions) of your pay before filing. You must report this amount, even if you have not received it from the employer.
- Pencil and paper to write down questions and instructions

The beginning date of your claim is the Sunday prior to the date you actually file your claim and ends one year later (your “Benefit Year”). There are exceptions, and a Customer Service Agent can explain them to you if you have questions.

### **Return to Work Date**

If your employer has placed you on a temporary layoff (of 4 weeks or less) with a definite return to work date, you may be eligible to have your work search requirement waived; however, you must provide us with a letter from your employer that states your actual return to work date, and you must inform us of any vacation pay or holiday pay you will receive.

### **Pensions & 401K Plans**

You must inform us if you are entitled to receive wages in lieu of notice, or a pension, 401K or similar plan. If you apply for a pension while you are filing for benefits, you are required to notify NMDWS.

# Eligibility for Benefits

## The Basics

Unemployment benefits provide temporary income to qualified workers who lose their jobs through no fault of their own. Employers pay for this program; employees do not contribute to unemployment taxes.

### BASIC ELIGIBILITY REQUIREMENTS

You must qualify in all of these areas to be eligible for unemployment benefits:

1. Base Period Wages
2. Separations from Your Job(s)
3. Able and Available Requirements
4. Work Search Requirements
5. Suitable Work

## 1. Based Period Wages - Monetary Eligibility

### **Base Period**

We send a *Monetary Determination* that tells you whether you have enough wages during your base period (the first four of the last five completed calendar quarters before the start date of your claim) to qualify for benefits (see the base period chart).

#### How to Figure Your Base Period

Find the month you filed your claim in the **white** boxes. The quarters in the **blue** boxes on the same line make up your base period.

OCT NOV DEC	JAN FEB MAR	APR MAY JUN	JUL AUG SEP	◀	JAN FEB MAR	APR MAY JUN	JUL AUG SEP	OCT NOV DEC
	JAN FEB MAR	APR MAY JUN	JUL AUG SEP	OCT NOV DEC	◀			
Last Year		APR MAY JUN	JUL AUG SEP	OCT NOV DEC	JAN FEB MAR	◀	JUL AUG SEP	
		JUL AUG SEP	OCT NOV DEC	JAN FEB MAR	APR MAY JUN	◀	OCT NOV DEC	

This Year

The *Monetary Determination* includes your weekly benefit amount (WBA), the maximum benefit amount (MBA) allowed during your benefit year (which is the 12 months your claim is in effect) and information on how NMDWS calculated your benefit amounts. If you worked for the federal government, the military, or in other states, your first *Monetary Determination* may not include those wages. We send a *Monetary Redetermination* whenever we receive additional wage information. A *Monetary Determination* stating you are monetarily eligible does not mean

that you meet all of the requirements for receiving benefits. It simply means that you meet one of the important requirements by having sufficient qualifying wages.

Call us immediately if your *Monetary Determination* or *Monetary Redetermination* has the wrong Social Security number. Carefully review the wages and employers reported on the determination. Missing wages or missing employers could reduce your benefits or prevent you from qualifying. If you dispute employment or wage information, a *Wage and Employer Correction Sheet* will be sent to you. Follow the directions on the form to submit wage corrections.

### ***Alternate Base Period (ABP)***

If you receive a *Monetary Determination* or *Monetary Redetermination* indicating that you are not monetarily eligible under the regular base period (first four of the last five quarters), you may be eligible to use the Alternate Base Period. The Alternate Base Period consists of the last four completed calendar quarters. If wages are available, the Department will automatically establish a claim using the Alternate Base Period and will notify you with a *Monetary Determination*. If wages are needed to determine an Alternate Base Period, you will be sent an *Alternate Base Period Notification* letter that includes instructions about how to submit wage information for the Alternate Base Period. Once the wages have been investigated, the Department will send you a *Monetary Redetermination* that uses the Alternate Base Period.

### ***Benefit Year***

Your claim is established for a 52-week period called a benefit year. It begins with the effective date of your claim and ends 52 weeks from that date. You may file weekly requests for benefits/weekly certifications until your claim has ended or you have exhausted your benefits. You may also file if you have earnings from part-time employment that are less than your weekly benefit amount. At the end of the benefit year, your claim will end whether or not you have received all available benefits. If you are unemployed at that time, you will need to file a new claim for benefits.

### ***Covered Employment***

Covered employment is work performed for an employer who is subject to the Unemployment Insurance (UI) tax laws or who otherwise makes payments for unemployment benefits. Employment in some fields is not usable on your claim because it is not considered “covered” employment under the UI tax laws. Non-covered jobs may include services performed through self-employment, and some religious organizations and some non-profit organizations. Commissions earned as a real estate agent or insurance agent and wages earned as an elected official or payments to corporate officers are also not covered. You may not be able to collect unemployment benefits if you performed non-covered work.

### ***Work Authorization***

NMDWS is required by law to verify a claimant's alien status to show they are legally able to work in the United States. If you worked here illegally, we cannot use your wages to calculate benefits. If you are not a citizen, we must verify your work authorization status with the U.S. Citizenship and Immigration Services (USCIS). Work authorization numbers, also called alien registration numbers, USCIS numbers, or A-numbers are identification numbers issued to noncitizens by USCIS. At the time of filing, if you do not have your work authorization number, you must submit a copy of your Permanent Resident card and Social Security card within 10 days. If the Department needs additional information, you will be sent a letter with instructions about what copies of documents you will need to send and where to send the copies.

## **2. Separation from Your Job(s) - Non-Monetary Eligibility**

***Even though you may have earned enough to qualify for benefits, you must meet other requirements to be eligible to receive unemployment benefits.*** For example, if you quit or were fired from your job, a department representative will request information from you and your employer and will determine your eligibility for benefits.

You will either receive a *Notice of Approval* or a *Notice of Disqualification*. Included in the notice will be the reasoning and findings and the effects of the determination. If you have any other outstanding issues, these will also be listed at the end of the notice with an Issue ID number. If you receive a Notice of Disqualification, It will include instructions for filing a timely appeal. Failure to file a timely appeal may prevent you from having the original decision changed.

#### **You may be denied benefits if you:**

- Quit or were discharged from your job for reasons constituting misconduct.
- Are unemployed due to a strike.
- Are not able or available for and actively seeking full-time or part-time work of at least 20 hours per week.
- Refuse or fail to apply for suitable work.
- Have earnings equal to or more than your weekly benefit amount. (This includes wages, vacation, holiday or separation pay.)
- Are self-employed or working on a commission basis.

**This list does not include all the reasons for which benefits may be denied.**

## **3. Able and Available to Work**

You must be physically and mentally able to work full-time or part-time of at least 20 hours per week. If you are ill, injured, on a leave of absence or unable to work for any other reason, you may not be eligible for benefits for that period of time.

You are required to report that you are not available for work when any condition exists that could prevent you from working, accepting work or seeking full-time work. This includes, but is not limited to: out of country travel, illness, injury, hospitalization, incarceration, school attendance, loss of childcare or loss of transportation. You may be required to provide evidence of your ability to work, such as a doctor's statement.

You must be immediately available to accept full-time work. You cannot place unreasonable restrictions on the hours you will work, the wage you will accept, or the distance you will travel to work. If your employer is holding your job while you are on a Leave of Absence or on approved family leave under the Medical Leave Act of 1993, you will not be considered available for work.

## **4. Registering with the New Mexico Workforce Connection System and Work Search Requirements**

To start looking for another job, register as a job seeker at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) or at your local New Mexico Workforce Connection Center. Registering and creating an account in the New Mexico Workforce Connection system is required within **14 days** of your initial claim for Unemployment Insurance benefits. You can also access valuable job seeker resources and programs at the New Mexico Workforce Connection Centers around the state. To find the office nearest you, go to [www.dws.state.nm.us](http://www.dws.state.nm.us) and click on "Office Locations" at the top of the page.

If you are requesting to certify for your weekly benefits, you are required to report your work search contacts at the time that you certify. Unless exempted by the department, you are required to make a minimum of two different work search contacts every week to qualify for benefits. You will need to report the date of your contact information (such as a phone number or web address), and what was the result of your contact. Please have this information readily available at the time you certify or your benefits may be delayed.

To help you keep track of your work searches, a *Work Search Log* is available for you to log each work search contact you make. This form is available at [www.dws.state.nm.us](http://www.dws.state.nm.us), under the "Unemployment Insurance" header and "Resources." Include specific details that document the type of contact. This form is to assist you keep track of your work searches over time. If you are selected in a work search audit, a letter and official form will be sent to you from the Department. You must submit any requested information and return to the UI Operations Center via the directions included in the letter.

## **5. Suitable Work Requirements**

Benefits can be denied if you refuse suitable work or fail to apply for suitable work. You cannot refuse an offer of suitable work without good cause.

You are not required to accept work if:

- the work presents an unreasonable risk to your health, safety, or morals;
- your level of physical fitness, training, or experience make a position unsuitable;
- the work is unreasonably far from your residence;
- the wages, hours or other conditions of the work are substantially less favorable than comparable work in your area;
- the work is available only because of an organized labor strike or lockout; or,
- the work is available only to those who join a company union. You cannot be made to resign from or be prohibited from joining a recognized union.

As a period of unemployment lengthens, you may need to broaden your work search and reduce your salary demands.

# Additional Information about Unemployment Benefits

## Dependent Allowance (DA)

The “Dependent Allowance” permits a claimant to receive benefits in the amount of \$25.00, for each un-emancipated child under the age of 18, up to a maximum of two children, and not to exceed fifty percent of a claimant’s weekly benefit amount. The claimant must provide at least 51% support for each dependent.

To be eligible for dependent allowance, you must request this allowance on the date that you file your initial claim. You will be required to answer questions about the “Dependent Allowance” requirements, which include providing the name, date of birth, and Social Security number for all of your dependents. If you do not have this information at the time of filing, you must log into the Unemployment Insurance Tax & Claims system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)) or contact a Customer Service Agent in the UI Operations Center and provide your dependents’ information. You may not be eligible for dependent allowance payments for any weeks that are before the time you provided dependent information. The Department may request documentation to verify your dependents. If the Department requires documentation, you will receive a request for information. Follow the instructions on the document. Individuals claiming benefits are required to report to this agency within **5 days** of any change in circumstances regarding dependents.

## Labor Dispute (Strike, Work Stoppage or Lockout)

You may be denied benefits if you are unemployed because of your participation in an organized labor dispute. (The words “labor dispute” include strikes and lockouts.) However, there are many exceptions to this law. You can contact a Customer Service Agent in the UI Operations Center if you have questions about the determination on your eligibility based on a labor dispute.

## Child Support Payments

If you owe child support, the Child Support Enforcement Division with the New Mexico Human Services Department may request that a portion of your benefits be withheld based on a court order. These benefits are then paid to the Child Support Enforcement Division. You will receive notice if such a deduction is requested.

## Union Members

- Under some circumstances, the work search requirement may be waived for members of unions with a hiring hall. To qualify you must demonstrate the following: you must have proof of your union status; you must follow the requirements established by your union when you become unemployed; and you must be a member in good standing and on the out-of-work list.

- Union members who are not registered on the out-of-work list must register for work with the New Mexico Workforce Connection either online at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) or at your local New Mexico Workforce Connection Center.
- If you are filing from outside of New Mexico, you must register for work or get a signed statement from your union that you are registered with the union.

### **Cancellation of Your Claim**

If you decide you want to cancel your claim, you must contact the UI Operations Center at 1-877-664-6984 and a Customer Service Agent will assist you with that process. This is done only if your request is made before the payment of any benefits or the issuance of a disqualifying determination regarding a separation or suitable work issue.

### **Income Tax and Federal Withholding**

You must report 100% of the Unemployment Insurance benefits you receive when you file your income taxes. By January 31 of each year, we will send you form 1099-G listing the amount of benefits you received the prior year. This information is also furnished to the Internal Revenue Service. You can view your 1099-G by logging into the Unemployment Insurance Tax & Claims system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us), or you can contact a Customer Service Agent in the UI Operations Center at 1-877-664-6984, Monday through Friday from 8:00 a.m. to 4:30 p.m. The UI Operations Center offers service in English and Spanish.

You may elect to have federal taxes withheld from your unemployment benefits on a weekly basis. If you choose to have the taxes withheld, it will be at a rate of 10% of the gross amount of your payment for each week. You may change your withholding election from "yes" to "no" once during your benefit year.

### **Jury Duty**

You will be considered available to the labor market when you are serving as a juror. Payment received for this service will not be deducted from your weekly benefit amount. You are required to provide the summons in order to document your availability.

### **Deductions for Pensions, Annuities or Retirement Pay**

Any pension or similar payment must be reported. The payments will be deducted from your weekly benefit amount if:

- the pension or payment is from a base period employer(s);
- the work you did for a base period employer made you eligible for the pension or increased the pension amount.

The contributions you made to your pension fund are not deducted from your Unemployment Insurance benefits. Only the amount of your pension financed by your employer is deductible from your Unemployment Insurance benefits.

Pension payments will be prorated on a weekly basis. Your weekly benefit amount will be reduced dollar-for-dollar by your deductible weekly pension amount.

You must report any other type of pension payment you receive. This includes 401K plans.

If you receive a lump sum payment, it may be deductible as well. If you fail to report a pension or payment you may be required to repay any Unemployment Insurance benefits that you received.

### **Deductions for Wages in Lieu of Notice, Holiday or Vacation Pay**

Wages in lieu of notice, holiday or vacation pay must be reported. Payments of this type may be considered deductible income and may be deducted from your weekly benefit amount. The deduction will be based on a 40-hour work week unless you worked less than 40 hours or are ex-military. Military wages are based on a 7-day work week.

This figure is then applied to the days you were unemployed until the total gross amount is exhausted. Wages in lieu of notice payments are deducted from your weekly benefit amount on a dollar-for-dollar basis. Vacation pay and holiday pay are reportable only if you have a definite return to work date that is established by your employer. However, holiday pay is reportable even if you do not have a definite return to work date if the holiday falls during a week you are claiming unemployment benefits.

### **If You Were Employed by an Educational Institution**

Wages you earned from an educational institution cannot be used to determine eligibility during summer vacation or holidays unless any of the following apply:

- you have been notified that you will not be rehired the following semester/term or after the holiday;
- your employer has notified you there is only a chance that you will be rehired. You must tell us when you are notified that you will be rehired. Substitute teachers who have a reasonable assurance of rehire are not entitled to Unemployment Insurance benefits unless, at the discretion of the educational institution, they do not return back to work when school resumes. You must continue to file your weekly requests for benefits/weekly certifications or reopen your claim and then advise us that you were not rehired at the start of the new term.

If there is a historical pattern of reemployment or you have been notified in writing that you will be rehired doing the same or similar work, the wages you earned cannot be used on your claim. You may receive benefits based on other wages if you worked for another employer(s) during your base period and if you would be monetary eligible without the wages from the educational institution.

## When to Reopen Your Claim

To reopen your claim, log into your account in the Unemployment Insurance Tax & Claims system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) or contact a Customer Service Agent in the UI Operations Center at 1-877-664-6984. You need to reopen your claim if:

- you have missed filing your weekly request(s) for benefits/weekly certification(s) for two weeks or more;
- you have previously told the Department you have returned for work full-time; or
- you are now unemployed or earning less than your weekly benefit amount, want to begin receiving benefits again, and are within your benefit year.

## Appealing a Decision

If you are denied benefits, you have the right to appeal the determination to the Department's Appeal Tribunal. You must file your appeal within 15 calendar days from the date the determination was issued. You may file an appeal by completing the "Request for a Hearing" information that is provided with the disqualifying determination you receive. You can also file your appeal to a determination online by logging into your account in the Unemployment Insurance Tax & Claims system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us). Additional information about the appeals process and procedure is available at [www.dws.state.nm.us](http://www.dws.state.nm.us).

If you have any questions about the appeal process, please speak to a Customer Service Agent in the UI Operations Center at 1-877-664-6984. You can contact the Appeals Tribunal at 1-800-227-7325 (if you are in New Mexico), 1-800-545-0533 (if outside of New Mexico), or 505-383-2700.

When you file an appeal, it is important that you continue filing your weekly request for benefits/weekly certifications. If the outcome of the appeal is in your favor, you will be paid only for those weeks for which you file a weekly request for benefits/weekly certification and have met all other eligibility requirements.

You may appeal a Notice of Determination with which you disagree if you were aggrieved by the notice. Other interested parties, such as your employer(s), may also appeal the same determination. You have 15 calendar days from the date of the determination to appeal the determination. If you file a late appeal, you must provide an explanation for why you missed the deadline. Your failure to timely appeal will only be excused if the Appeal Tribunal determines that you have established good cause for filing a late appeal.

### Appeal Hearings

You have the right to have witnesses, an attorney or other representative participate in the hearing process with you. Appeal hearings are typically conducted telephonically, and the hearings have very strict guidelines as far as call-in procedure and the submission of documents to present as evidence. Subpoenas of witnesses or records are available at the discretion of the Administrative Law Judge assigned to your case. In all cases, to adequately prepare for and participate in a hearing, you must review and follow the instructions you receive from the Department after you file your appeal. If you have any questions, contact the Appeals Tribunal at (505) 383-2700.

### Higher Authority and District Court

If the hearing officer's decision is not in your favor, you may appeal to the Department's Cabinet Secretary. The Secretary will decide your appeal or will refer it to the Board of Review. You MUST write your reasons for disagreeing with the decision in detail. Your appeal must be filed within 15 calendar days from the date of the decision. If you file the appeal late, you must show that the late filing was not your fault.

Whether the case is reviewed by the Board of Review or the Cabinet Secretary, an in-person hearing will not be held. The record is reviewed to ensure the decision is supported by the evidence and Unemployment Insurance

law. If it is not, the decision may be reversed, or remanded to the Appeal Tribunal for another hearing. You will be notified in writing of the Board's or Secretary's decision and any subsequent hearing.

If the Secretary or the Board's decision is not in your favor, you may appeal it to the district court within 30 days of the date of the decision. If the appeal decision is in your favor, benefits will be paid ONLY for the weeks you are eligible for benefits and have completed a weekly request for benefits.

If your employer appeals a determination that approved you for benefits and the Appeal Tribunal decision reverses the approved determination, you will be required to repay all Unemployment Insurance benefits paid to you for the period you are denied. You may appeal the Appeals Tribunal decision that denied you benefits and obligated you to repay overpaid benefits.

If you are denied benefits because of a labor dispute, you may appeal it. You must attend the appeal hearing. You may also have a union representative or an attorney accompany you as your representative.

## Making a Weekly Request for Benefits/Weekly Certification

After you have applied for and have been determined monetarily eligible for benefits, a weekly request for benefits (sometimes referred to as a weekly certification) must be filed for each week you are requesting benefits. You must submit a timely request for weekly benefits/weekly certification. The first eligible week of any new claim is a “waiting week”. You will not receive benefits for this week and it is not included in your weeks of payment.

Your weekly request for benefits/weekly certifications can be filed through the online system through the Unemployment Insurance Tax & Claims system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us) Sunday through Friday from 4:00 a.m. to 9:00 p.m. or by calling 1-877-664-6984 using a touch-tone telephone, Monday through Friday. If you need assistance with your weekly request for benefits/weekly certification or if there is an issue on your claim, contact a Customer Service Agent in the UI Operations Center at 1-877-664-6984, Monday through Friday from 8:00 a.m. to 4:30 p.m. The UI Operations Centers offers services in English and Spanish.

## Working and Receiving Benefits

Can you work and receive benefits? That depends on how many hours you work and how much you earn. You still must be able, available for, and willing to accept additional permanent full time or part time work (Part time work that is a minimum of 20 hours of work per week).

You must report your total gross wages (the total amount earned prior to deductions) earned each week, whether or not you were paid. You must also provide the employer’s name and address and your employment status (still employed, laid off, on call, quit, discharged, etc.) Work is any service that you perform for wages, including self-employment, during the seven days of the week you are claiming Unemployment Insurance benefits. You may be entitled to a reduced amount of Unemployment Insurance benefits while you are working.

Like all earnings, earnings received from National Guard and reserve duty must be reported during the week they are earned. Remember, the benefit week ends on Saturday. Therefore, weekend duty is reportable on two different weeks, Saturday earnings on one and Sunday’s on the next.

Wages are any kind of payment you receive for work you do, which includes food, lodging or anything of value. Each calendar quarter (three-month period) wages you report are compared with the wages reported by your employer. You can earn up to 20% of your weekly benefit amount without reducing your benefit payment, but you must report all gross wages earned. Your benefit payment will be reduced for each dollar you earn over this amount. If you do not report the correct amount of wages, including the cash value of any payment that you received in any medium other than cash, you may have to repay benefits you have already received. You will not receive any benefits if you earn wages equal to or more than your weekly benefit amount.

**Log into your account in the Unemployment Insurance Tax & Claims System ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)) or contact a Customer Service Agent via 1-877-664-6984 for any of the following:**

- If you have an address or telephone number(s) change.
- If for any reason you are not able to work or look for work.
- If you have been referred to or offered a job that you had to refuse.
- If you are self-employed or working on commission, even if you do not make any money.
- If you are enrolled or plan to enroll in school or training.

## Payment Options

If you signed up for direct deposit or debit card on a prior claim, we use the account information on file. If the information is not current, you are responsible for updating all the information and your payment preferences.

If you are filing an unemployment claim for the first time, choose one of the following options:

1. Direct Deposit: To sign up or change account information, select Direct Deposit as your Payment Option in the Unemployment Insurance Tax & Claims system at [www.jobs.state.nm.us](http://www.jobs.state.nm.us). You must use a U.S. checking or savings account. You need the nine-digit routing number, account number, and account type of your bank or credit union. You can find that information on a check. It may take up to a week from your direct deposit request to verify the direct deposit information. The New Mexico Department of Workforce Solutions (NMDWS) does not accept Prepaid Debit Card accounts as a direct deposit payment option for Unemployment Insurance benefits. Only verified checking and saving accounts from approved financial institutions will be accepted. **PLEASE NOTE: Customer Service Agents in the UI Operations Center cannot enter your direct deposit information on your behalf. Direct deposit information can only be entered by you in the Unemployment Insurance Tax & Claims system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)).**
2. Wells Fargo Debit Card: If you do not select direct deposit, NMDWS sends your payment to a Visa® debit card from Wells Fargo Bank. Your debit card is valid for three years. If you had a debit card from a prior claim that is lost or expired, call Wells Fargo at 1-866-898-2213 for a new card. If you have never received benefits by debit card, your card and instruction packet will arrive seven to ten after we send your first payment to Wells Fargo. For information about cash withdrawals, schedule of fees, and balance inquiries, go to [www.dws.state.nm.us](http://www.dws.state.nm.us), and click on "Unemployment Insurance" and "Debit Card Information."

Changing your preferred payment method can be done via the online Unemployment Insurance Tax & Claims system ([www.jobs.state.nm.us](http://www.jobs.state.nm.us)). Please note, you may receive a paper check (warrant) in the mail during the transition to your new payment method for at least the first week after you make the change in our system. For information about the Wells Fargo Debit Cards, visit [www.dws.state.nm.us](http://www.dws.state.nm.us) and look under "Unemployment Insurance" and "Debit Card Information."

# Special Unemployment Insurance Programs

## Ex-Military (UCX)

You may be entitled to benefits as a former member of the Armed Forces. Your eligibility will depend on the length of service and the nature of your discharge. If you were separated from the Armed Forces within the last 18 months, you should provide this information when you file your claim.

If you have filed a claim in another state based on your military wages, be sure to include this information when filing your initial claim.

### Determination and Assignment of Military Wage Credits

Federal military wage credits are assigned to the state in which you first file a claim after separation from active duty. Your military service wages are determined by your grade or rank at date of separation. Wages are not assigned to any state until wages are verified through your branch of service. You may be asked to provide a copy of your Form DD-214, Member 4.

### Reports from the Branch of Military Service and Notice of Non-qualifying Service

If information is missing or if the Department has requested a copy of your Form DD-214, Member 4, and you fail to provide it, your claim will not be established. A *Monetary Redetermination* will be issued when the information is received.

Be sure to continue filing your weekly requests for benefits/weekly certifications. If you are eligible, benefits will be paid only for those weeks for which you have filed a request for benefits/certification and have met all other eligibility requirements.

### Vocational Rehabilitation Training and War Orphans Educational Assistance

Military benefits may not be paid for any weeks you receive Veterans Administration Training or a subsistence allowance under the Vocational Rehabilitation Training Act or the War Orphans' Educational Assistance Act (Chapters 31 and 35 of Title 38 of the U. S. Code).

Information from the branch of Military Service regarding length of service and nature of discharge is final and binding. If you disagree with their findings about the length of service or type of discharge, you must appeal directly to the branch of service from which you were discharged. If you do not know how to do this, contact a Veteran's Representative at your Workforce Connection Center. Continue to file your weekly request for benefits/weekly certifications. If the Branch of Service rules in your favor, payment will be made only for the weeks for which you have filed a request for benefits/certification.

## **Unemployment Compensation for Federal Employees (UCFE)**

You may be eligible for unemployment benefits if you were a civilian employee of the federal government. If you worked for the federal government within the last two years, you must inform a Customer Service Agent in the UI Operations Center at 1-877-664-6984, Monday through Friday from 8:00 a.m. to 4:30 p.m. Unlike other wages, federal wages are not reported to any state until you file a claim and the wages are requested.

### **Assignment of UCFE Wage Credits**

UCFE wage credits will not appear on your wage file and *Monetary Determination* until they are assigned to New Mexico. They can be assigned to New Mexico if your Last Official Duty Station was in New Mexico.

### **Your Last Official Duty Station was in New Mexico**

After you separated from your federal employer, you worked in New Mexico for an employer who paid unemployment insurance taxes or, your last duty station was outside the 50 states, the District of Columbia, Puerto Rico, or the Virgin Islands, and you are now living in New Mexico.

Otherwise, your UCFE wages belong to another state and we will have to request them from that state. (See Combined Wage Claim on page 28.) Your UCFE wages will be added to your claim when received by the Department. Continue to file your weekly request for benefits/weekly certifications while you are waiting for additional wages. If they cannot be used on your claim, an explanation will be provided. If you disagree with the findings, you may file an appeal. You should continue to file your weekly requests for benefits/weekly certifications while you appeal. You may be asked to provide a copy of your Standard Form 50 (SF50) and Standard Form 8 (SF8) that you received from your federal employer upon separation and proof of earnings from that federal employer for your base period.

### **Finality of Findings**

Reports from the federal agency regarding your service or the location of your official duty station are final. If you disagree with the findings, you may ask that federal agency for which you worked for additional information or a re-consideration of the findings. If you request the federal agency to reconsider its findings, you should continue to file your weekly request for benefits/weekly certifications. If the determination is in your favor, payments for benefits will not be made for the weeks you did not complete a request for benefits/certification.

### **Trade Adjustment Assistance**

The Federal Trade Adjustment Act (TAA) or NAFTA/TAA pays special benefits under certain conditions. If you were laid off or had your hours reduced because of increased importation of foreign goods or if you worked for an employer who relocated under the NAFTA Agreement you may qualify for these specialized benefits.

These TAA benefits may include:

- training and remedial education;
- special weekly benefits; and,
- financial help for job search or relocation.

If you worked for an employer that has been impacted either by the TAA or NAFTA/TAA, you will receive notification of potential eligibility for this program.

### **Combined Wage Claim**

If you have wages in two or more states in the base period (of which one state must be New Mexico), you may be able to use these wages to establish a claim in New Mexico. To find out whether to pursue a combined wage claim, you should speak with a Customer Service Agent in the UI Operations Center. The Customer Service Agent will provide you with information on your best filing options. You must be able to provide complete details of all employers for whom you have worked in the last 18 months.

# Overpayments and Fraud

## Overpayments

If you are paid more Unemployment Insurance benefits than what you are eligible to receive, you have been overpaid. The following are some of the most frequent causes of overpayments:

- failing to report gross earnings or other deductible income correctly. Remember, you must report your earnings before deductions;
- continuing to receive Unemployment Insurance benefits after returning to work. You must report your earnings in the week you earned them, NOT when you received them. Earnings can be in a form other than cash, such as room and board;
- failing to report all earnings from work while claiming benefits OR failing to provide any other information that could affect your claim;
- being reinstated in a job with retroactive pay or a back pay award after a grievance hearing. (Retroactive or back pay may affect weeks for which you received Unemployment Insurance benefits and can possibly affect future weeks); or
- being paid Unemployment Insurance benefits, and later being disqualified because you were deemed not eligible.

## Repayment of Benefits

You must repay all overpaid benefits, and the Department has a statutory duty to collect overpaid benefits. You can make a lump sum payment or installment payments. Contact the UI Operations Center, 1-877-664-6984 (Monday through Friday, 8:00 a.m.-4:30 p.m.) or log into your account online in the Unemployment Insurance Tax & Claims system through [www.jobs.state.nm.us](http://www.jobs.state.nm.us) to set up a repayment plan.

If you are currently filing for and receiving Unemployment Insurance benefits, a percentage of these Unemployment Insurance benefits may be credited against your overpayment account. This request may be made in writing or by calling the UI Operations Center at 1-877-664-6984.

If you do not repay the overpayment, this Department will take legal steps to collect. This may result in a judgment or execution on your property, interception of tax refunds, fines and/or imprisonment.

In instances of overpayments that were incurred due to fraud, the Department will seek an order declaring your overpayment non-dischargeable in Bankruptcy Court. Fraud overpayments must be repaid to the Department in full and cannot be offset by future benefits.

## Penalties and Prosecution

We are responsible for protecting the Unemployment Insurance Trust Fund. Anyone who collects or attempts to fraudulently collect Unemployment Insurance benefits to which they are not entitled will:

- be barred from receiving Unemployment Insurance benefits for up to one year;
- have to repay the Unemployment Insurance benefits received including a civil penalty of 25% of the amount of benefits obtained as a result of intentional misrepresentation or failure to disclose material facts; and
- be subject to civil and criminal penalties.



## Treasury Offset Program

The New Mexico Department of Workforce Solutions (NMDWS) uses many tools to recover overpaid Unemployment Insurance (UI) benefits. The Treasury Offset Program (TOP) is available to permit NMDWS to intercept federal income tax refunds and apply them to overpayment debts.

Unemployment Insurance overpayments subject to the TOP are those due to fraud or the failure to accurately report earnings.

A “pre-certification” letter is mailed 180 days after the debt become delinquent to the last known address of the individual explaining that their debt will be forwarded to TOP if not satisfied within 60 days.

Claimants can pay the debt in full, or present evidence that part or all of the debt is not subject to the offset. Evidence must be received by NMDWS within 60 days from the date of the “pre-certification” letter. If full payment is not received, or evidence is not received by the 60-day deadline, NMDWS will refer the debt to the Treasury.

If a TOP collection proceeds against you, part or all of your federal income tax return will be intercepted by the United States Treasury and remitted to the Department before you receive it. If you have any questions about TOP or the letter you receive call the UI Operations Center, 1-877-664-6984, Monday through Friday from 8:00 a.m. to 4:30 p.m.

## Privacy

The Privacy Act of 1974 requires that you be furnished this statement because you are being asked to furnish your Social Security number on the claim forms given to you. Your Social Security number is solicited under the authority of the Internal Revenue Code of 1954 (26U.S.C85, 6011(a), 6050(b), and 6109(a)). Disclosure of your Social Security number for this purpose is MANDATORY and must be entered on the forms you submit to claim Unemployment Insurance. Your Social Security number will be used to report your Unemployment Insurance to the Internal Revenue Service as income that is potentially taxable; it will be used as a record index for processing your claim, for statistical purposes, and to verify your eligibility for Unemployment Insurance and other public assistance benefits. Should you decline to disclose your Social Security number, your claim for Unemployment Insurance will not be processed.