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Unemployment Insurance: Continued Eligibility Requirements–Work Search

To be, and stay, eligible for unemployment insurance (UI) benefits the Employment Development Department (EDD), the agency that handles UI, needs to know that you are:

- Able to work;
- Available for work;
- Actively searching for work and Accepting suitable work (the subject of this Fact Sheet), and
- Reporting any income you earn.

Some of these requirements are discussed in detail in separate Fact Sheets. This Fact Sheet will give you general information about reporting to the EDD and discuss, specifically, what it means to be actively searching for and accepting suitable work.

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1. How does the EDD keep track of whether I meet the requirements?

   The EDD gathers information on your continued eligibility through a form called the Continued Claim Form and through information reported by employers. You should receive the form in the mail every two weeks. If you are not receiving your Continued Claim Forms, you should contact the EDD immediately and request that they be sent.

   You must complete and return a Continued Claim Form to the EDD for every week you would like your claim for unemployment claim to be active. If you do not complete and return the Continued Claim Form on or before the deadline printed on the form, you will not be paid benefits for those weeks (unless you can show a very good reason for missing the deadline).

   It is a good idea to keep a copy of every continued claim form you file in case questions come up later and you cannot remember what you reported.

   back to top

2. What does the continued claim form ask?

   The Continued Claim Form asks questions about your ability to work, your availability for work, your work search and any income earned over the two-week period covered by the form. The form also asks whether you looked for work or refused any job offers. You also may be asked to detail your work search on the back of the Continued Claim Form. You must complete this section *only if* the EDD has marked an "X" in black ink in the box asking you to do so on the front of the form. Even if you are not required to fill out the back of the form in a particular week, it is a good idea to record the details of your work search for your own reference in case the EDD later challenges your search.

   back to top

3. What does it mean to be "actively searching" for work?

   The EDD will consider you to be actively searching for work if you are applying for jobs, attending interviews and participating in other activities that may lead to reemployment. Below are some examples of active work search efforts:

   - registering for work through the EDD
   - registering for work through a union hall
   - contacting former employers in search of reemployment
   - taking a civil service exam and/or applying for work in a government agency
   - registering for work with a private employment agency
   - responding to classified ads or internet job listings
   - posting your resume on job-search websites
   - filling out job applications

What will be considered reasonable efforts to seek employment will vary depending on the type of employment sought. In certain professional jobs, seeking employment by sending a resume and cover letter, and then following up with a phone call may be most appropriate. In other areas of work, visiting a worksite and filling out a job application in person may be the best way to find a job. Some jobs may require participation in pre-employment training programs. You will be expected to search for work in whatever way is considered the usual process in your field. Many individuals begin a search for work by consulting classified ads in printed publications or online but simply reading ads and identifying potential employers is *not* considered an active work search. You must take additional steps to contact employers, in writing, by telephone or in person. Generally, if you are making 2-3 contacts with potential employers each week, your work search will normally be considered active. Even though the EDD does not usually ask for a listing of contacts made each week, keep a record of your contacts in case you later need to prove your work search has been active.

back to top

4. What does it mean to be searching for and accepting "suitable work"?

“Suitable work” is work in your “usual occupation” which you are “reasonably qualified” to perform. The EDD will consider your usual occupation to be the one in which you have the most, or most recent, experience. The EDD will consider you reasonably qualified to perform only work that is somehow related to work you have done before. This makes it very difficult for individuals who want to transition into a new field of employment to qualify for unemployment benefits while searching for a new type of work. For example, if you have been working as an administrative assistant for the last 5 years, the EDD will not consider looking for work as a graphic designer suitable, unless you can show that you already have skills, experience or training in that field as well.

In addition to searching for suitable work, the EDD expects you to accept any suitable work you are offered unless you have a good reason to refuse it. Unfortunately, the EDD often thinks work is suitable even when you may not. Many people refuse offers of work because the pay is not as high as they would like, or the commute is too long, or the hours of work are not ideal, or sometimes simply because the work atmosphere does not feel quite right. Many of these reasons may result in a disqualification for unemployment benefits because the EDD expects your reasons to meet a high standard, called good cause. Good cause is a reason so compelling that even though you genuinely want to find work, you are forced to turn down a job for that reason.

This high standard for having a good reason means that in general the EDD will expect you to accept jobs that are within your skills and experience when the terms of the employment—pay, commute, hours, responsibilities—fall within the normal range for similar jobs in your geographical area.

back to top

5. What if I turn down a job offer because the commute takes too long?

The EDD will expect you to take a job if the commute is typical for the area. For example, in the Bay Area many people commute to work over an hour each way by car or by using public transportation, so anything under a 1.5 hour commute each way would generally be considered suitable. Additionally, the longer you have been unemployed, the farther the EDD will expect you to be willing to commute.

If, however, you could show you would have to take public transportation at an unsafe hour or wait for a bus in an unsafe neighborhood, you may have a good reason to reject the job offer. Additionally, if the cost of commuting would be excessive, such as more than half of your pay, you will probably be eligible for unemployment benefits if you reject the job.

But having a good explanation for why the commute is difficult is not enough. You also should be prepared to explain why you did not have other reasonable options for making the commute shorter, safer or less expensive, such as looking for rides with co-workers, repairing your old car or asking a friend to pick you up at the bus stop.

back to top

6. What if I turn down a job because the rate of pay is too low?

Generally, you are expected to accept work that pays the usual rate for similar work in your geographic area. You can find out what the EDD believes is the typical wage for your occupation and geographic area by looking at the labor market information section of EDD’s website. The EDD will consider a job unsuitable if the rate of pay is less than 10 percent below the typical rate for similar work in the area.

Additionally, if your prior experience, training and earnings place you at the higher end of the range of wages, you may be able to reject a job at the low end of the scale. For example, if executive secretaries earn $15-$25 per hour in your area, and you are an executive secretary who receives an offer for a job that pays $15, that job generally would be considered suitable. If, however, you have 20 years of experience and your last three jobs all paid more than $20 per hour, this might give you a good reason to reject the job, especially if you have been unemployed for only a few weeks.

back to top

7. What if I reject a job because my skills and experience do not fit the job responsibilities?

If a job offered involves responsibilities generally within your skills and experience, the EDD would consider it suitable. If, however, the vast majority of the job responsibilities are extremely above or beneath your skills and experience, this may be a good reason for you to turn down the offer. But the EDD may expect you to take the job to try it out or while you are looking for better work. As a result, it helps if you can show that accepting the job would lead to your skills getting rusty or limit your chances to find a job that would make use of all your skills.

back to top

8. What if I am unable to search for or accept work during part of a week?

The kinds of events that typically cause you to be unable to search for work—illness, injury, travel plans or lack of childcare—also tend to make you unable to accept new work. For more information on these issues, see our Fact Sheets Unemployment Insurance: Availability for Work and Unemployment Insurance: Ability to Work.

You should not be disqualified from receiving unemployment benefits if you are prevented from searching for work by an unexpected emergency or jury duty.

In cases of illness or injury, the EDD will reduce your unemployment benefits for the week by the number of days you were unable to meet all the requirements. If, however, the EDD believes you have a continuing problem preventing you from meeting eligibility requirements, you may be disqualified and have to prove your eligibility through the appeal process.

back to top

9. What if the EDD questions my search for work?

The EDD will assume you are answering the questions on the Continued Claim Form truthfully. However, if the EDD receives any information that suggests you might not be truthfully reporting about your work search, such as from former or prospective employers, the EDD will investigate.

If you have indicated on the Continued Claim Form that you are not actively making work contacts, the EDD will call and ask why. Similarly, if the EDD receives information from a former or prospective employer suggesting that you have refused a suitable job offer, the EDD will call to discuss the details of the offer and the reason(s) it may have been refused. The EDD will confirm with you how much information you received about the job offered, including location, rate of pay, hours, start and/or end dates, and responsibilities. If the employer did not tell you much of this information, you could argue that no job was truly offered. If you refused the job, the EDD also will ask why you turned down the work. As described above, reasons such as distant location, low pay, weekend hours and short duration will not be considered good reasons to refuse a job unless these things fall outside the normal range in your geographical area and field of employment.

At the end of its investigation, if the EDD decides you have not been actively searching for work, the EDD will issue a Notice of Determination denying your benefits for each week you did not conduct a proper work search. If you already received unemployment benefits for those weeks, the EDD may also issue a Notice of Overpayment that requires you to pay back benefits wrongly received, imposes an additional two to ten week disqualification period and includes a 30% penalty on benefits wrongly received (if the EDD believes you lied to receive benefits). If the EDD decides that you refused a suitable job offer without good cause, the EDD will issue a Notice of Determination disqualifying you from receiving future benefits for two to 10 weeks. You have a right to appeal the EDD's denial and/or overpayment notice (see below for more information).

back to top

10. What can I do if I am denied benefits or issued an overpayment notice?

If you believe you have been wrongfully denied unemployment benefits or wrongfully issued an overpayment notice, you may appeal the EDD's decision(s), by sending an appeal letter or appeal form to the EDD within 20 days of the mailing date on the Notice of Determination or Notice of Overpayment. The EDD will consider the postmark date as the date of mailing. Any appeal sent more than 20 days after the mailing date will be considered late. If you are late, you will have to show "good cause" for not appealing on time before the judge will decide whether you were wrongly denied benefits. Because good cause can be very difficult to prove and adds another obstacle to you winning your case, you should meet the deadline if at all possible.

If you believe you have been rightfully denied unemployment benefits because, in fact, you did refuse a suitable job offer, you will have to serve out the disqualification period by continuing to submit Continued Claim Forms to the EDD even though you will not receive benefits for those weeks. If you were disqualified for failing to conduct an active work search, you may simply contact the EDD to “reopen” your claim once you are ready to actively search for and accept suitable work. If you were overpaid benefits, you also will have to repay the overpaid amount (plus any penalty), and satisfy any disqualification period, which can be five to ten weeks long, by submitting Continued Claim Forms to the EDD even though you will not receive benefits for those weeks. The EDD sometimes will set up a payment plan with you, so that you do not have to pay back all the benefits at once.

Accepting the denial and/or the overpayment will delay your benefits. However, it may not affect the total amount of benefits you can receive because the cap on benefits will remain the same. (You normally can receive 26 weeks of benefits in a year.)

back to top

For further information about your employment rights, contact the Workers’ Rights Clinic.

Disclaimer

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.