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Employee Guide to Unemployment Insurance in Colorado

Unemployment insurance benefits are intended to provide partial income replacement for unemployed individuals who meet certain requirements. Applying for and maintaining unemployment benefits following termination from employment may seem like a daunting and complicated task, but this guide is intended to provide employees with the necessary tools to navigate this process from start to finish.

The Colorado Department of Labor and Employment (CDLE) oversees the administration of unemployment insurance. All unemployment insurance matters are handled through the CDLE's unemployment website, www.colorado.gov/pacific/cdle/unemployment. On this website, you can apply for unemployment benefits and get more information regarding the unemployment process. You can also file by calling CDLE or applying in person at a Workforce Center. The only time you cannot file online is if you received workers compensation benefits anytime in the last three years.

To qualify for unemployment benefits, you must (1) be able and available to work, (2) actively seeking work, (3) have earned \$2,500 during your base period, and (4) be unemployed through **no fault of your own**. Although the first two requirements are fairly self-explanatory, the final two require some consideration prior to filing out an application.

CDLE uses a formula to calculate the amount of benefits an employee may receive. The formula is based upon wages paid to you during the base period, which is the first four of the last five completed calendar quarters (i.e. January-March, April to June, etc.). An employee must earn at least \$2,500 at some point during this period to be eligible for benefits.

The final (and most complicated) requirement is that you be unemployed through no fault of your own. This means that in most cases, if you voluntarily quit your job, you are not eligible to receive benefits. Additionally, if you engaged in misconduct or had poor performance that led to your termination, you are also ineligible. Because of this requirement, employees should carefully answer two key questions on the unemployment application.

First, an employee must provide the reason for termination given by his or her employer. If an employer gave the employee reasons that were untrue or no reason at all, the employee can use this to his or her advantage to show that there is no reason for termination attributable to the fault of the employee.

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Second, an employee must also provide the reason she believes is the reason for termination. In cases where an employee has suffered discrimination, harassment, or retaliation that the employee believes are the real reason for the termination, even where an employer has given a different reason, it is the employee's response to this question is her primary opportunity to challenge the employer's given reason. The adjudicator, also known as a deputy, assigned to the case will review information from both the employee and employer, assuming the employer provides any information. Thus, it is very important for an employee to challenge the accuracy any reason given by the employer when describing why she believes she was terminated.

The termination reasons that do not constitute fault of the employee, even if they caused the employee to quit, include:

- domestic violence;
- personal harassment by the employer not related to actual job performance;
- hazardous working conditions; and
- medical conditions, including mental illness, no matter the underlying cause.

Once you have submitted your application for benefits, you can sign up for an online account through myui.coworkforce.com, which will allow you to track your application as it is processed. You will also use this account to request payment every two weeks.

It typically takes between 4-6 weeks for CDLE to process an unemployment application. During this time, the adjudicator assigned to your application will contact both the employee and the employer to gather additional information. The employer may also provide documentation to support the reason it provides to support the termination decision.

While your application is pending, you will either receive a debit card onto which CDLE will load your benefits, or you can elect to have them directly deposited to your bank account. You will only receive benefits once your eligibility has been determined, and then only if you request payment every two weeks. You must also attempt to find a new job and must make and record at least five job contacts each week starting when you submit your application. You must report these contacts to a Workforce Center, which will also assist you in making such contacts. Work registration with a Workforce Center is required to receive benefit payments.

CDLE will notify you in writing via U.S. mail of the decision regarding your eligibility for benefits. If the adjudicator has determined you are not eligible for benefits, you can appeal this decision to a hearing officer. You must appeal the adjudicator's decision within 20 calendar

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days of notification of the decision. The appeals hearing office will then set a hearing date for the case to be heard by a hearing officer.

Prior to the hearing, you will receive a packet with all of the information and documents used to determine your eligibility. You also have the opportunity to ask the hearing officer to order the employer to provide additional documents to you prior to the hearing that are relevant to the reasons supporting your termination. This is done by the issuance of a subpoena, which you must serve on the employer. Additionally, you may also request a subpoena for other employees to appear as witnesses at the hearing.

An unemployment hearing is typically scheduled to occur telephonically, but you can also request to appear in person. This will help the hearing officer to better judge your credibility if the actual reason for your termination is in dispute. You will have the opportunity to present evidence to explain why you are not at fault for your separation from employment and to cross-examine any witnesses called by the employer. The hearing is *de novo*, meaning that the hearing officer does not consider, and is not bound by, the prior decision by the adjudicator and is giving you a clean slate to explain your separation. The hearing officer will issue a written decision on your eligibility.

Again, you can appeal this decision to the Industrial Claim Appeals Office (ICAO) within 20 days of the decision. An ICAO panel will decide your appeal based only on written arguments. If the panel rules against you, you can appeal again to the Colorado Court of Appeals. Both an appeal to the ICAO and the Court of Appeals require that you demonstrate fault with the hearing officer's decision.

If you are eligible to receive benefits, you must continue to search for jobs (at least five contacts per week), to request payment from CDLE every two weeks, and to otherwise maintain your eligibility (i.e. be able and available to work). You can only receive benefits for **26 weeks**.

Importantly, if your employer pays out your earned but unused vacation time or agrees to pay you severance, these amounts will delay your unemployment benefits for the number of hours represented by those payments. If and when you receive such payments, even if you have already begun receiving unemployment payments, you have an obligation to disclose this income, and income from any other source, to CDLE. You can, however, receive (or resume receiving) unemployment benefits after the period of time represented by the income.

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Conclusion

The CDLE has attempted to make the seemingly daunting process of applying for and maintaining unemployment insurance benefits as user-friendly as possible. There are, however, still many complicated requirements that can create pitfalls for claimants without legal representation. This guide contains all of the information needed to successfully navigate the process in most cases, but it will sometimes be necessary to seek legal representation if you have been denied benefits.

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