

EMPLOYMENT LAW SUMMARY

North Carolina Unemployment Compensation – Employee Eligibility



Because You're Different

North Carolina unemployment insurance (UI) benefits provide temporary income to individuals who have lost work through no fault of their own. The program partially replaces wages lost by an employee when certain conditions are met.

The North Carolina Employment Security Law (ESL) requires most types of employers to contribute to the state unemployment insurance fund. North Carolina prohibits employers from deducting their UI contribution costs from their employees' wages. Certain eligibility requirements must be met in order for an employee to receive North Carolina UI benefits.

EMPLOYEE ELIGIBILITY REQUIREMENTS

The North Carolina [Division of Employment Security](#) (DES) determines individual eligibility for benefits on a weekly basis. The DES considers monetary and non-monetary eligibility criteria. To qualify for benefits, individuals must:

- Be totally or partially unemployed through no fault of their own;
- Have received sufficient wages during the base period to establish a claim;
- File a valid claim with the DES;
- After waiting through an initial one-week waiting period, request benefits on a weekly basis using the DES unemployment [website](#) or telephone system and maintain eligibility for each week in which benefits are claimed;
- Report at an employment office as requested by the DES; and
- Be physically able to work, available to work, actively seeking work and willing to accept suitable work for each week in which benefits are claimed.

In general, an employee's "base period" is the first 12 months of the five calendar quarters that immediately precede the date of the employee's UI claim. In order to establish a valid claim, an employee must have worked in employment subject to the UI tax and must have:

- Earned wages in at least **two quarters** of his or her base period;
- Earned wages totaling at least **six times** the average weekly insured wage during his or her base period; and
- Worked and earned six times his or her weekly benefit amount since the beginning of any prior claim.

EXEMPTED EMPLOYMENT

Certain employees are not covered under the ESL. As a result, they are not entitled to UI benefits. Employers are not required to report the wages of these employees and do not have to make contributions based on their wages.

For UI purposes in North Carolina, the term "employment" excludes:

- Work performed by an independent contractor;
- Service performed for a governmental entity or nonprofit organization under sections 3309(b) and 3309(c) of the Internal Revenue Code;

- Real estate brokers or securities sales agents paid on commission; and
- Service performed by a nonresident employee for a nonresident business performing disaster-related work within North Carolina during a disaster response period at the request of a critical infrastructure company.

The ESL also excludes forms of employment that are excluded from the definition of “employment” under the Federal Unemployment Tax Act, including, but not limited to, certain forms of agricultural and domestic service; work performed for schools, colleges and universities; and service performed for foreign governments and international organizations.

DISQUALIFICATION

While an individual may earn enough in wages to establish a valid UI claim, he or she may still be disqualified from receiving UI benefits if he or she:

- Leaves work for a reason other than good cause attributable to the employer;
- Is discharged for misconduct in connection with work;
- Fails to possess a license, certificate, permit, bond or surety that is required for his or her employment;
- Fails to apply for or accept suitable work;
- Was customarily self-employed and can reasonably return to self-employment;
- Is unemployed due to an active labor dispute;
- Is unemployed due to a voluntary sale of an ownership interest in a cooperation, partnership, limited liability company or proprietorship;
- Files a fraudulent UI claim; or
- Is unemployed due to refusing to return to work after being recalled from a layoff.

APPEALS

After a claimant submits an application for UI benefits, the DES will issue a determination regarding the individual’s eligibility to receive benefits. Interested parties (claimant or employer) may appeal this determination and request a hearing.

The Board of Review (Board) decides cases that are appealed from the DES’s Appeals Section. The Board is made up of three members who are appointed by the governor and confirmed by the general assembly.

In general, appeals must be made in writing and filed with the DES **within 10 days** after a decision is made. Individuals are not required, but are allowed, to have legal representation during an appeal.

The Board will issue a written decision after reviewing the case. The Board may affirm, reverse or modify the decision that was made by the appeals referee. The Board may:

- Deny a party’s request for another hearing;
- Dismiss the appeal if the appeal was not filed within the required time frame; or
- Dismiss the appeal if the appealing party does not provide a clear, written statement explaining the reasons for appealing the appeals decision.

The Board may also order the Division to hold another hearing, and will contain information about further appeal rights.

MORE INFORMATION

Please visit the DES [website](#) or contact Heffernan Insurance Brokers for more information on unemployment compensation laws in North Carolina.

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