

KNOW YOUR RIGHTS: ELIGIBILITY FOR UNEMPLOYMENT INSURANCE

Unemployment insurance (UI) is available to temporarily help people who are unemployed through no fault of their own, are able and available to return to work, and are actively seeking work. Someone who meets these requirements must apply to the Arizona Department of Economic Security (DES) and be found “eligible” to receive UI benefits. Claimants may appeal a DES decision that denies them benefits.

I. Applying for Benefits

An initial claim for UI benefits must be submitted with DES. DES prefers that a claimant complete the application online at <https://extranet.azdes.gov/ders/ea/uiclaims/>.¹ After an application is submitted, a DES Deputy will contact both the claimant and the claimant’s last employer to investigate eligibility for UI benefits. A Determination of Deputy letter will then be mailed stating whether the applicant is found eligible. An eligible claimant *must continue to apply for UI benefits each week* to show that one is actively seeking work. The weekly certification can be done at <https://extranet.azdes.gov/ders/ea/uiclaims> or by filling out a UB-106-A-FF form and mailing it to DES.²

II. Eligibility for Benefits

Claimants must show that they are unemployed through no fault of their own, that they are able and available to work, and that they are actively seeking work. Benefits may be denied for failing to meet any of these criteria.

Unemployed Through No Fault of Your Own

UI benefits are only available to claimants who are unemployed through “no fault of their own.” A.R.S. § 23-601. This boils down to two questions:

- 1: *Is the separation from work a quit, a discharge, or was the claimant laid off for lack of work?* (See A.C.C. Title 6, Article 50)

DES is required to take certain factors into consideration when considering if a separation of employment was a quit or a discharge. These factors include the remarks and actions of both parties, who initiated the separation, and the parties’ intentions. In general, a separation is a quit when the employee acts to end the employment and intends this result; a separation is a discharge when the employer acts to end the employment and intends this result, including a layoff for lack of work or a request for the employee’s resignation.

- 2: *Is the reason for that quit, discharge or lay off disqualifying?*

A claimant who quits is eligible for benefits if the claimant quit for “good cause in connection to work” or had a compelling personal reason to quit. (See A.C.C. Title 6, Article 50) A claimant who was discharged is eligible for benefits unless the employer can prove that the claimant was

¹ Computers are available to claimants at One-Stop Centers or DES Employment Service Offices. The One-Stop Centers in Maricopa County are located at 735 N. Gilbert Rd., Ste. 134, Gilbert, AZ 85234 and 1840 N. 95th Ave., Ste. 160 Phoenix, AZ 85037.

² Weekly Claim for Unemployment Insurance (UI) Benefits, UB-106-A-FF (7-12), https://www.azdes.gov/uploadedFiles/Employment/Unemployment_Insurance_Benefits/UB-106.pdf

fired because of willful or negligent misconduct in connection with work. Finally, a claimant who was laid off for lack of work will generally be eligible for benefits unless the claimant requested to be laid off prior to any announcement by the employer that layoffs would be necessary due to reduction of work. Specifically, DES will consider:

- **In determining good cause for quit:** “what would a reasonable employee have done under similar circumstances?” In other words, was there was a good reason to quit, and would other people in that situation have done the same thing? However, someone may not quit on a whim. DES needs proof that you tried to make it work, tried to change the circumstances for the better and/or asked for time off to solve personal problems. You also can be eligible for benefits if you quit for a compelling personal reason, which includes any important personal or moral obligation that left you with no choice but to quit such as illness, domestic violence, military service, or childcare.
- **In determining disqualifying misconduct for discharge:** did you *knowingly* break a *uniformly enforced* company rule or otherwise act against the employer’s interest by not performing a work duty? This may include things like taking an unauthorized absence from scheduled work without reason, refusing to perform job duties, or assaulting a colleague.

Able and Available for Work (A.R.S. § 23-771 & A.C.C. Title 6, Article 52)

Claimants who are unemployed through no fault of their own also must show that they are able, available for, and actively seeking work. These conditions require claimants to be able to accept a suitable job as soon as one becomes available and to certify an active weekly search.

Being “able” to work means that you are physically and mentally fit to work in a position similar to prior jobs, or have the necessary skills and education to perform other jobs. For example, someone who is on a work restriction due to illness is generally ineligible for benefits until a doctor has cleared the person to work.

Being “available” to work means that your circumstances allow you to accept a full-time position should one present itself. This requires you to stay accessible to the job market, actively look for a new job and declare that you would be ready to start whenever the new employer needs. There are some special rules for students to demonstrate that they are able and available to work. (See A.C.C. R6-3-5240.) In addition, a claimant must be a citizen to obtain UI benefits; undocumented persons are not eligible. (A.C.C. R6-3-5270)

III. Appealing a Determination that You are Not Eligible

If DES finds that you are ineligible for UI benefits, you may appeal that determination by filing a notice of appeal with DES within 15 days of the date of the determination. Appealing the determination will get you a telephonic hearing with an Administrative Law Judge (ALJ). The employer will be notified of the appeal and hearing date. Both the claimant and employer are allowed to submit supporting documentation, have witnesses testify, and may ask relevant questions of the other party. The ALJ also will ask questions to get needed information. After the hearing, the ALJ will issue a decision on eligibility. The losing party has a right to petition for review of the ALJ’s decision. Directions on how to file this appeal will be in the ALJ decision.

For More Information Visit

- Arizona DES Unemployment Insurance Benefit Eligibility: <https://www.azdes.gov/main.aspx?menu=317&id=3834>.
- The William E. Morris Institute for Justice’s Guide to Unemployment Insurance, <http://morrisinstituteforjustice.org/docs/UnemploymentInsuranceGuide.pdf>.
- Information about referrals for legal assistance is available at <http://www.azlawhelp.org/> or by calling (866) 637-5341.