



# Eligibility Issues for Unemployment Benefits

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The Wisconsin Department of Workforce Development (DWD) administers the unemployment insurance program, which provides temporary benefits to eligible employees who become unemployed through no fault of their own. This issue brief highlights some of the key eligibility issues that may arise when a person applies for benefits under the unemployment insurance program.<sup>1</sup>

## GENERAL QUALIFYING REQUIREMENTS

A person must have a sufficient history of wages from covered employment to qualify for unemployment benefits. In addition, a person must file a weekly claim for benefits certifying that the person did all of the following that week: was available for work and able to work; registered for work with the [Job Center of Wisconsin](#); and undertook at least four work search actions. If a person is only partially unemployed, the person must also certify that they earned less than \$500 that week and worked less than 32 hours.<sup>2</sup>

The requirements to register for work and to conduct weekly work searches are waived if a person:

- Has a reasonable expectation of returning to work within eight weeks, which may be extended by four weeks, up to a total of 12 weeks.
- Is registered with a union hiring hall.
- Has a confirmed expectation of starting new employment within four weeks.
- Is summoned to serve as a prospective or impaneled juror.

## DISQUALIFICATION BASED ON CIRCUMSTANCES OF THE WORK SEPARATION

If any aspects of a person's employment history raise eligibility questions, DWD must investigate the particular facts in the case and issue an individual determination before benefits may be paid. If a person is disqualified, a future unemployment claim generally must be re-earned through new wages.

The following disciplinary issues render a person ineligible for unemployment benefits:<sup>3</sup>

- **Discharge for misconduct.** An employee who is discharged for misconduct is ineligible to receive benefits for the immediate seven-week period following the discharge and must re-earn 14 times the employee's calculated weekly benefit rate. Misconduct by an employee includes behavior that shows a willful or wanton disregard of an employer's interests, including deliberate violations or disregard of standards of behavior that an employer has a right to expect of employees. Examples of misconduct include violation of a substance abuse policy, theft of an employer's property, harassment, falsification of business records, absenteeism on more than two occasions within the last 120 days, or absenteeism in violation of an employer's policy.
- **Discharge for substantial fault.** An employee who is discharged for substantial fault is ineligible to receive benefits for the immediate seven-week period following the discharge and must re-earn 14 times the employee's calculated weekly benefit rate. Substantial fault by an employee includes acts or omissions that violate an employer's reasonable requirements. Inadvertent errors, minor infractions for which no warning is given, and insufficient skills or ability are not substantial fault by an employee.
- **Disciplinary suspension.** An employee who is suspended for good cause is ineligible to receive benefits for the immediate three-week period following the week that the suspension began, or for the duration of the suspension, whichever is shorter.

Sometimes referred to as a “**voluntary quit**,” an employee who voluntarily resigns or reduces hours is ineligible to receive benefits and must re-earn six times the employee’s calculated weekly benefit rate. However, an employee is eligible for benefits if the person quit due to any of the following reasons:<sup>4</sup>

- Acceptance of a layoff in lieu of layoff of another employee.
- An employer’s suggestion or directive to violate state or federal law.
- Unaddressed sexual harassment.
- A personal or family illness or disability with no reasonable alternative.
- Domestic abuse or concerns about personal safety or harassment.
- Honorable discharge or discharge under honorable conditions from active duty.
- An active duty spouse’s relocation.
- Transfer to a work shift that occurs at a time when child care is not available.
- Acceptance of a position, but then leaving within 30 days, if the work is not “suitable” as described below, the position was vacant due to a strike or lockout, or if the wages, hours, and working conditions are less favorable than similar work in the locality.
- Acceptance of a new position with more favorable wages or hours, a longer term, or a significantly closer work location.
- Other good cause due to an employer’s actions that leave no reasonable alternative.

## DISQUALIFICATION BASED ON OTHER CIRCUMSTANCES

DWD must also reduce or deny unemployment benefits for any of the following reasons:<sup>5</sup>

- Fraud or misrepresentation.
- Failure to accept suitable work when offered, without good cause.
- School employees or professional athletes who have a reasonable assurance of returning to work.
- Receipt of other sources of income replacement, such as worker’s compensation or Social Security Disability Insurance (SSDI) payments.
- Participation in a strike.
- The work was with a family corporation.
- Loss of an occupational credential that is required for a job and the suspension or revocation of the license is due to the employee’s fault.
- Receiving an offer of work but failing a pre-employment drug test or declining to take the test.

Sometimes referred to as a benefit amount reduction, or “BAR,” a person who submits a fraudulent claim or conceals a material fact is ineligible for benefits until an amount of time that is equal to at least two times the person’s weekly benefit rate is applied against future weekly claims.

A person who fails to accept suitable work when offered must re-earn six times the person’s calculated weekly benefit rate. “Suitable work” generally means work that is reasonable considering the person’s training and experience, but also the length of time the person has been unemployed. An offer of work that involves the same level of skill and similar hourly wages as prior work must be accepted, and if unemployment is longer than six weeks, a lesser level of skill or hourly wages must be accepted.

Lastly, a person who is not lawfully present in the United States, or is temporarily present under certain visa types, is not eligible for unemployment benefits.<sup>6</sup>

<sup>1</sup> For an overview of the unemployment insurance program, see Legislative Council, [Unemployment Insurance](#) (December 2020).

For more details on eligibility issues, see DWD, [Wisconsin Unemployment Insurance Handbook for Employers, Sec. 1, Part 7](#).

<sup>2</sup> ss. [108.04\(2\)](#) and [108.05\(3\)](#), Stats. If a person is partially unemployed, they may receive some benefits at a reduced rate.

<sup>3</sup> s. [108.04\(5\)](#), [\(5g\)](#), and [\(6\)](#), Stats.

<sup>4</sup> s. [108.04\(7\)](#) and [\(7m\)](#), Stats. In certain quit cases, benefits are paid from the reserve fund, rather than the employer’s account.

<sup>5</sup> s. [108.04\(1\)\(f\)](#) and [\(g\)](#), [\(8\)](#), [\(10\)](#), [\(11\)](#), [\(12\)](#), [\(17\)](#), and [\(19\)](#), Stats. Additional penalties apply to a fraudulent claim.

<sup>6</sup> 26 U.S.C. s. 3304(a)(14); and s. [108.04\(18\)](#), Stats.