

# FEDERAL UNEMPLOYMENT INSURANCE

Maryland Legal Aid

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**This Presentation is not a full Unemployment Training. It is a summary that addresses the Federal Unemployment Program (UCFE), in anticipations of questions related to the current Federal Civilian Employment Emergency.**

## **WHAT IS Unemployment Insurance?**

- Unemployment benefits are paid to former employees (Claimants), who lose their job at no fault of their own. Benefits are paid by the State in which they file and are approved.
- Claimants can ordinarily collect up to 26 weeks of benefits.
- Weekly benefit amount is determined by the Claimant's previous wages.

# Unemployment Compensation for Federal Employees (UCFE)

- **Definition**

- Provides unemployment compensation for former Federal Employees who lost their job through no fault of their own. 20 CFR 609.2(k).
- Administered by the States and D.C.
- Law of the State in which the former Federal Employee had their last official duty station in Federal Civilian Service will be used to determine eligibility for UCFE benefits.
- <https://labor.maryland.gov/employment/uifedworkerfaq.shtml>
- [https://oui.doleta.gov/unemploy/docs/factsheet/UCFE\\_FactSheet.pdf](https://oui.doleta.gov/unemploy/docs/factsheet/UCFE_FactSheet.pdf)

# UCFE - APPLYING

- You may apply for UI benefits under the Federal UCFE program in Maryland if:
  - your last official duty station was in Maryland, or,
  - you are a Maryland resident, and your last official duty station was outside of the United States.
- When you apply, you will need:
  - SF 50 Notification of personnel Action
  - SF 8 – Notice to Federal Employee About Unemployment Insurance
  - W-2
    - Can be found on <https://mypay.dfas.mil/#/>
  - Recent Paystubs
    - Can be found on <https://mypay.dfas.mil/#/>
    - Example of information on accessing W-2: <https://www.dfas.mil/legislativeaffairs/taxstatements/>

# UCFE – Continued (SF 8)

Print this form

**TAKE THIS FORM WITH YOU IF YOU GO TO FILE A CLAIM**

## UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES (UCFE) PROGRAM

### NOTICE TO FEDERAL EMPLOYEE ABOUT UNEMPLOYMENT INSURANCE

This form has been given to you because (1) you have been separated from your job, or (2) you were placed in a nonpay status, or (3) your records have been transferred to a different payroll office.

*Unemployment insurance (UI) for Federal workers.* When unemployed, Federal workers may be entitled to UI benefits similar to those of workers in private industry. If you become unemployed or are in a nonpay status and want to FILE A CLAIM, go to the nearest LOCAL PUBLIC EMPLOYMENT SERVICE OFFICE of the STATE EMPLOYMENT SECURITY AGENCY to register for work and file your claim for UI. Your ELIGIBILITY for UI CANNOT be determined until AFTER you file a claim. DO NOT DELAY filing a UI claim; if you wait, your unemployment benefits may be reduced or you may not qualify for any benefits.

To help EXPEDITE your claim, take THIS FORM with you, your SOCIAL SECURITY ACCOUNT NUMBER CARD, the OFFICIAL NOTICE of your most recent SEPARATION or of your present NONPAY status (Standard Form 50 if available), EARNINGS and LEAVE statements, or similar documents that indicate you were employed by a Federal agency.

### (Standard Form 50 not issued by U.S. House of Representatives)

**FEDERAL AGENCY** will insert in the box:

**1st line** - Parent Federal Agency Name and 3 digit code number

**2nd line** - Major Component (if any)

**3rd and 4th line** - complete address to which all forms pertaining to a claim should be sent (ES-931, 931A, 934, 936, and notices of appeal, hearings, and determinations)

3 Digit  
Identification  
FEDERAL AGENCY

CODE NO.  
002

**U.S. House of Representatives**  
**Office of Payroll & Benefits**  
**B-215 Longworth House Office Building**  
**Washington, DC 20515**  
**202-225-1435**

To be completed by the *Federal Agency*:

Contact Name/Office

**Office of Payroll & Benefits**

**U.S. House of Representatives**

Telephone No. (*include area code*)

**202-225-1435**

**KEEP THIS FORM** and **TAKE IT WITH YOU** if you file a UCFE/UI claim for unemployed Federal workers provided by Federal law (U.S. CODE, Title 5, Chapter 85). For more information about UCFE/UI, read the REVERSE SIDE of this form.

# UCFE – Continued (SF 50)

Standard Form 50  
Rev. 7/91  
U.S. Office of Personnel Management  
FPM Supp. 296-33, Subch. 4

## NOTIFICATION OF PERSONNEL ACTION

|  |  |                          |                     |                              |                  |  |                 |                       |                          |                  |                           |               |
|--|--|--------------------------|---------------------|------------------------------|------------------|--|-----------------|-----------------------|--------------------------|------------------|---------------------------|---------------|
| 1. Name (Last, First, Middle)                    |  |                          |                     | 2. Social Security Number    |                  | 3. Date of Birth                                 |                 | 4. Effective Date     |                          |                  |                           |               |
| <b>FIRST ACTION</b>                              |  |                          |                     |                              |                  | <b>SECOND ACTION</b>                             |                 |                       |                          |                  |                           |               |
| b-A. Code  |  | b-B. Nature of Action    |                     |                              |                  | 6-A. Code  |                 | 6-B. Nature of Action |                          |                  |                           |               |
| 5-C. Code  |  | 5-D. Legal Authority     |                     |                              |                  | 6-C. Code  |                 | 6-D. Legal Authority  |                          |                  |                           |               |
| 5-E. Code  |  | 5-F. Legal Authority     |                     |                              |                  | 6-E. Code  |                 | 6-F. Legal Authority  |                          |                  |                           |               |
| 7. FROM: Position Title and Number               |  |                          |                     |                              |                  | 15. TO: Position Title and Number                |                 |                       |                          |                  |                           |               |
| 8. Pay Plan                                      |  | 9. Occ. Code             | 10. Grade or Level  | 11. Step or Rate             | 12. Total Salary | 13. Pay Basis                                    | 16. Pay Plan    | 17. Occ. Code         | 18. Grade or Level       | 19. Step or Rate | 20. Total Salary/Award    | 21. Pay Basis |
| 12A. Basic Pay                                   |  | 12B. Locality Adj.       | 12C. Adj. Basic Pay |                              | 12D. Other Pay   | 20A. Basic Pay                                   |                 | 20B. Locality Adj.    | 20C. Adj. Basic Pay      |                  | 20D. Other Pay            |               |
| 14. Name and Location of Position's Organization |  |                          |                     |                              |                  | 22. Name and Location of Position's Organization |                 |                       |                          |                  |                           |               |
| <b>EMPLOYEE DATA</b>                             |  |                          |                     |                              |                  |  |                 |                       |                          |                  |                           |               |
| 23. Veterans Preference                          |  |                          |                     |                              |                  | 24. Tenure                                       |                 |                       | 25. Agency Use           |                  | 26. Veterans Pref for RIF |               |
| 1 - None   |  | 3 - 10-Point/Disability  |                     | 5 - 10-Point/Other           |                  | 0 - None   | 2 - Conditional |                       |                          | YES              | NO                        |               |
| 2 - 5-Point                                      |  | 4 - 10-Point/Compensable |                     | 6 - 10-Point/Compensable/30% |                  | 1 - Permanent                                    | 3 - Indefinite  |                       |                          |                  |                           |               |
| 27. FEGLI  |  |                          |                     |                              |                  | 28. Annuitant Indicator                          |                 |                       | 29. Pay Rate Determinant |                  |                           |               |
| 30. Retirement Plan                              |  |                          |                     |                              |                  | 31. Service Comp. Date (Leave)                   |                 |                       | 32. Work Schedule        |                  | 33. Part-Time Hours Per   |               |

# UCFE – Continued

- ES-931 State Request for Wage and Separation Information
  - States send this form to the claimant's separating federal agency

| (STATE AGENCY IDENTIFICATION)<br>REQUEST FOR WAGE AND SEPARATION INFORMATION- UCFE  |  |                      |                             |
|---|--|----------------------|-----------------------------|
| 1. State Agency Address:  | 2. Name of Federal Agency, 3 Digit Agency Code, and Address: |                      |                             |
| 3. Local Office/Call Center ID:<br>Claim:   | 4. Date of Request:  | 5. Date claim taken: | 6. Effective Date of Claim: |
| 7. Name (Last, First, Middle Initial)   | 8. Social Security Number                                    |                      |                             |
| <b>Complete and Return Within 4 Workdays</b>  |  |                      |                             |
| 9. Location of Official Duty Station. If outside U.S., enter Country: _____   |  |                      |                             |
| 10. Did this person perform Federal Civilian Service, @ as defined for UCFE purposes, for your agency at any time on or after the base period begin date shown in Item 11a below? <span style="float: right;">__Yes __No</span> |  |                      |                             |
| If No, Complete Items a – e below.  |  |                      |                             |
| a. Under what legal authority was the individual hired? _____   |  |                      |                             |
| b. What funding Source was used for salary payments? _____  |  |                      |                             |
| c. Were payroll deductions made for Federal and State taxes?  |  |                      | __Yes __No                  |
| d. Was Employee eligible for:   |  |                      |                             |
| (1) Annual and Sick leave?  |  |                      | __Yes __No                  |
| (2) Health and Life insurance?  |  |                      | __Yes __No                  |
| (3) Civil Service or FERS retirement?   |  |                      | __Yes __No                  |



# Duty Station

- Official Station or Duty Station is designated on the SF 50 or Notice of Personnel Action, terminating the individual's Federal civilian service.
- If the individual's Duty Station is not stated, it is the State or Country designated under "name and Location of employing office."
  - Ex: A person who works in D.C., but lives in Maryland should file in D.C., unless their Duty Station names another location.

# Schedule of Benefits

The employee's weekly benefit amount is determined by law.

<https://labor.maryland.gov/employment/ui-scheduleofbenefits.pdf>

# Turning to Legal Issues

# Are You Unemployed?

- Defined:
  - Discharge (Termination)
  - Leave of Absence
  - Voluntary Quit
  - <https://labor.maryland.gov/uiappeals/decisions/8-801.shtml>
- It is fact-specific.

## Separation Not Required – You must be unemployed.

- Even on a leave of absence, a Claimant is unemployed under Section 8-801 even though there remains some connection between the Claimant and the Employer such as continuation of medical insurance benefits, seniority rights and a guaranteed return date.
- Such circumstances are often characteristic of a layoff. These factors are irrelevant to the statutory definition of unemployment contained in Section 8-801.
- The crucial test is whether an individual has performed services with respect to which wages are paid or payable.
  - Maryland Lab & Empl. § 8-801(A)
  - **Case Law:** *Fourtinakis v. Johns Hopkins University*, 870-BH-81. See also:
  - <https://labor.maryland.gov/uiappeals/decisions/8-801.shtml>

# Separation From Employment?

- Definition – Separation May Not Be Required – Fact Specific
  - Discharge (Termination)
  - Voluntary Quit
- Able and Available
  - You must be able to work (e.g., not on sick leave)
  - You must be available for work (no artificial constraints)
- Actively Seeking Work
  - You must continue to look for a job while on UI – turn over to NM

# Voluntary Quit

Defined: <https://labor.maryland.gov/uiappeals/decisions/8-1002.shtml#def>

- “Leaving work voluntarily” means the employee ended their employment of their own will.
- Voluntarily quitting bars an employee from benefits.
- There are two exceptions to the bar: quitting for good cause or valid circumstances.

# Claimant Eligibility in a Voluntary Quit Case

## Voluntary Quit for Good Cause

- The decision to quit must be directly connected to the conditions of employment or the actions of the employer.
- Non-work related reasons, no matter how compelling, are not good cause.
- A claimant who voluntarily quits for good cause is fully eligible for benefits.



# Claimant Eligibility in a Voluntary Quit Case

## Voluntary Quit for Valid Circumstances

- The decision to quit is directly connected to the conditions of employment or the actions of the employer, or
- The decision to quit has a compelling reason where the employee has no choice but to quit.
- Voluntarily quitting for valid circumstances will result in the employee being disqualified from benefits for 5 – 10 weeks. The employee is eligible for benefits after the disqualification period.

# Claimant Eligibility in a Voluntary Quit Case

## Resignation in Lieu of Termination

- When an employee is given the choice of resigning or being fired and chooses to resign, the case is treated as a discharge.
  - The employee in this case does not possess an intent to quit.
- When an employee resigns when facing accusations which might result in a discharge, then the employee has voluntarily quit without good cause or valid circumstances.

# Claimant Eligibility in a Voluntary Quit Case

There are three circumstances where an employee voluntarily quitting their job can never be for good cause or valid circumstances:

- Leaving a job for self-employment, or
- Leaving to accompany or join a spouse in a new location, or
  - There is an exception for spouses in military service.
- Leaving to attend an educational institution.

Is There Allegation of Misconduct?

## Misconduct is a Delay or a Bar to Getting Unemployment

<https://labor.maryland.gov/uiappeals/decisions/8-1002.shtml#gross>

- Definition – 3 Types of Misconduct in Maryland:
  - **Simple** (Lab & Empl. § 8-1003) Defined as not gross or aggravated
    - Penalty 10-15 weeks
  - **Gross** (§ 8-1002) Most cases
    - Deliberate and willful disregard of Employer and gross indifference to Employer's interest
    - Repeated Violations of Employer rules
    - Penalty 25 X weekly benefit amount
  - **Aggravated** (Rare)
    - Penalty 30 X weekly benefit amount

## Misconduct, Cont'd

- Did the Former Employee commit misconduct at work?
- It is the Employer's Burden of Proof
  - Termination or layoff due to lack of work or job abolishment is a discharge, but not for misconduct
  - ([Stevens v. Harford County Schools, 13-BR-82](#))
- Poor Performance – no connection to UI standards

# Claimant Responsibilities

To maintain eligibility for benefits, a claimant must be:

## **ABLE to work**

- A claimant must be capable of performing work for which they are qualified

## **AVAILABLE for work**

- A claimant must be able to perform work during reasonable times without unreasonable restrictions

## **ACTIVELY SEEKING work**

- A claimant must conduct an honest and active search for work

\*A claimant's disability cannot be used as a factor in finding that they are not able, available, or actively seeking work.

# Denial of Benefits

- The agency must issue its decision in writing.
- The employee has a right to appeal to the Lower Appeals Division within 15 days of the decision.
- A telephone hearing will be conducted followed by a written decision.
- The employee has a right to appeal this decision to the Board of Appeals within 15 days of the date of the Lower Appeals decision.
- If the Board takes the appeal, it must issue a written decision.
- The employee has the right to appeal the Board's decision to the Circuit Court within 30 days of the date of the Board's 'decision.



- Maryland Legal Aid, [mdlab.org](http://mdlab.org)
  - Intakes are online, telephone or walk-in at any Legal Aid Office
- Presenters:
  - Cornelia Bright Gordon, Advocacy Director for Administrative Law
  - [cbgordon@mdlab.org](mailto:cbgordon@mdlab.org)
  - Nicholas Alexander Martin, Staff Attorney

- **MARYLAND LEGAL AID**
- [mdlab.org](http://mdlab.org)
- MLA Intake Requires Eligibility Screening
- Personalized Review
- Income/Assets/Conflicts
- 12 Offices and [ONLINE INTAKE](#)

- QUESTIONS???
- Turn over to Delegate Charkoudian