



Unemployment Benefits for Domestic Violence Victims: Frequently Asked Questions

Employment is critical for domestic violence victims to be able to support themselves and their children. Often, having enough money to pay the bills makes the difference between continuing to live with an abuser and having the financial independence to separate. Unfortunately, domestic violence victims may find that their safety is at risk because they are working. They may also find that their job is at risk because of an abuser's actions.

If you are a domestic violence victim who is experiencing abuse that is affecting your job, or you have had to leave or were fired from your job because of the abuse, these questions and answers are designed to provide information on:

- increasing safety at work
- deciding whether to tell your employer about the abuse
- applying for unemployment insurance benefits
- filing a complaint if you have experienced discrimination as a domestic violence victim
- finding resources for additional assistance

Q. My job is being affected by domestic violence – could I be eligible for unemployment benefits if I have to quit or if I am fired because of the violence?

A. You may be eligible for unemployment benefits if you lost your job or if you had to quit voluntarily or leave your job because of domestic violence, in other words, because you believed that continued employment would jeopardize your safety or the safety of any member of your immediate family.

The Department of Labor recognizes that domestic violence occurs in a wide variety of relationships, including married and formerly married couples, same-sex couples, couples with children in common, couples who live together or have lived together, and dating couples who are currently or were formerly in an intimate relationship.

Members of your immediate family would also include your children, parents, grandparents, or a brother/sister.

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Q. How does the Department of Labor define domestic violence?

A. Domestic violence is generally defined as a pattern of coercive tactics which can include physical, psychological, sexual, economic and/or emotional abuse by one person against a family or household member to establish and maintain power and control.

An abuser may:

- do things that make you afraid
- do things to control you
- threaten to hurt you or someone close to you
- physically abuse you

To find out more about domestic violence, visit the NYS Office for the Prevention of Domestic Violence website, [“Finding Safety and Support.”](#) To speak to someone about domestic violence, contact the [NYS Domestic Violence and Sexual Assault Hotline](#).

Domestic violence may spill over into the workplace, threatening your safety, the safety of a family member, or possibly, your co-workers.

You may have quit your job because your abuser was:

- following you to your job
- calling and harassing or threatening you at work
- threatening you about your job or preventing you from going to work
- making contact with co-workers or your boss
- doing other things that might lead to your co-workers or boss finding out about the abuse
- doing things that might get you fired

Q. If I am eligible, what benefits could I receive?

A. Unemployment insurance is temporary income for eligible workers who have become unemployed through no fault of their own. If you qualify, you can receive insurance benefits of up to \$405 per week, depending upon the amount of wages you earned in the employment you had in the 15 months prior to filing. The length of time that you may receive benefits depends on a number of factors, including the maximum limit set by the federal government. For instance, under certain economic conditions, like periods of high unemployment, the

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government may extend benefits beyond the typical maximum of 26 weeks, and may add supplementary benefit amounts.

Unless it is specifically excluded by law, if you are found eligible, all employment that you performed for your employer is covered whether you worked on a part-time, full-time, temporary, or casual basis.

Q. What are the conditions of eligibility for benefits?

A. To be eligible for unemployment benefits, you must meet several requirements:

1. **Job loss:** You must have lost your job or voluntarily quit your job because of domestic violence. You may be asked to provide verbal information or written documents that would support or prove that continuing to work would threaten your safety or the safety of any member of your immediate family.

To find out more about documentation, go to [“What kind of documentation might I need?”](#)

In addition, you may also have a claim for employment discrimination if your employer fired you because of circumstances directly related to your being a victim of domestic violence. To find out more, go to [“What can I do if I have been discriminated against by my employer because I am a victim of domestic violence?”](#) .

2. **Earnings:** You also must have earned enough wages during your base period of employment before filing your claim. The base period is the number of weeks or months you have worked in the past year. For help in calculating your own base period, see the Department of Labor’s publication: [Unemployment Insurance Information for Claimants: A Handbook for Persons Claiming Benefits under the New York State Unemployment Insurance Law](#).
3. **Work Readiness:** You must be ready, willing, and able to work while you are receiving benefits. You must demonstrate that availability by actively looking for suitable work while you are claiming benefits. You will be asked to document your work search efforts.

If you are not physically or mentally capable of employment because of the domestic violence, you may not qualify for or be paid benefits until you satisfy the Department of

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Labor that you are again capable of working and are making diligent efforts to find a job.*

* If you became disabled because of the domestic violence, you may consider filing a [claim for disability](#).

*If you aren't able to work due to domestic violence, you may be eligible for public assistance. For more information, visit [the NYS Office for Temporary and Disability Assistance website](#). For information about the Family Violence Option designed to protect victims of domestic violence who are applying for public assistance, visit the [Empire Justice Center website](#).

4. **Waiting Period:** You should file your claim in the first week that you have become unemployed. This is important because your first week is an unpaid waiting week, commonly referred to as the "waiting period."

Q. How do I apply for benefits?

A. You can apply for benefits by telephone or online. Despite the one week waiting period, you should apply for benefits as soon as possible after you lose or leave your job.

(1) Online: You may file a claim at <https://ui.labor.state.ny.us/UBC/home.do>

Monday through Thursday – 7:30 am to 7:30 pm
Friday - 7:30 am to 5:00 pm
Midnight on Friday until 7:00 pm on Sunday

Online services are only available in English.

(2) Telephone: The Telephone Claim Center (TCC) will accept your claim and is available Monday through Friday, between the hours of 8:00am and 5:00pm. You can call toll-free at:

1-888-209-8124 (New York State Residents)
1-877-358-5306 (Out-of State Residents)

(3) Services for non-English speakers:

If you do not understand English well or if it is not your first language, assistance is also available in Spanish and numerous other languages. Interpretation services are also available.

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(4) Deaf or hard of hearing services:

If you are Deaf or hard of hearing and use TTY/TDD, call a Relay Operator at 1-800-662-1220 and ask the Operator to call the TCC at 1-888-783-1370. This number is only available to those callers with TDD equipment

See [“How to File an Unemployment Insurance Claim”](#) for general information on the application process.

Q. What information should I have available when I file my claim?

A. Go to http://www.labor.ny.gov/ui/how_to_file_claim.shtm

Q. What happens after I apply?

A. When the Department of Labor gets your application for unemployment insurance and sees that you lost or left your job because of domestic violence, they may need more information about your claim before making a decision. A claims examiner will contact you by telephone and interview you about your last job and how it ended. The claims examiner will also ask your employer for information before making a decision on your application.

Q. What will the interview be about?

A. The claims examiner will ask you questions to find out information about your claim and the domestic violence. If you lost your job, the examiner will try to find out why you think your employer fired you because of the domestic violence. If you quit your job because the domestic violence made you afraid for your safety or the safety of an immediate family member (like a parent, spouse or domestic partner, child, grandparent, brother or sister), the examiner will ask you questions about why you were afraid and why you felt you had to quit your job to stay safe.

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Q. How can I prepare for the interview?

A. You should be prepared to explain exactly how the domestic violence is related to you being fired, or you quitting your job. Did your employer fire you when you asked for time off to go to court because of the domestic violence? Did you lose your job because your employer felt you weren't doing your job well anymore? Were your latenesses or absences from work the result of circumstances of abuse?

Did you quit because your abuser was harassing you at work? Did you quit because you were afraid for your safety? Did you quit because you felt you had to move when the abuser threatened to hurt your children? You should tell the examiner about situations like this.

Q. Will I need to provide proof of the domestic violence?

A. The law requires you to provide "reasonable and confidential documentation" of the violence. Sometimes, your statement in your application that you lost or left your job because of domestic violence may be enough to satisfy the Department of Labor. The information you provide verbally in your interview may also be sufficient. However, the examiner may ask you for written documentation as evidence of the domestic violence, and you should be prepared to send copies.

Q. What kind of documentation might I need?

A. If you called the police about the domestic violence, and you have a copy of the Domestic Incident Report, police report or arrest report, you can send any of these to the examiner. If you have an order of protection, you should send a copy to the examiner. If the abuse was prosecuted, but did not result in an order of protection, the prosecutor may be able to write a letter for you. If you didn't call the police or get an order of protection, or you don't have a copy of these things, be prepared to explain why to the examiner.

There are still other forms of evidence you can provide. Did you or a family member ever go to the hospital or see a doctor because of injuries related to the violence? Did you or a family member ever see a counselor, social worker, or domestic violence advocate because of the violence? If you did, you can send notes or a letter from any of these people about the violence. A letter from a lawyer or a religious leader explaining that you asked them for help in dealing with the violence can also be evidence for the interview. You may also send a letter from your

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former employer or a co-worker, or any other records or proof that may support your claim. By law, this documentation will be kept confidential by the Department of Labor.

If you did not call the police or a domestic violence program for assistance, or you did not get an order of protection, this does not mean that you won't be able to qualify under this provision.

Q. What if I don't have any documentation about the domestic violence?

A. If you don't have anything written about the violence – a police report, order of protection, doctor's note, advocate's letter – that doesn't automatically mean you can't get benefits. Just be prepared to explain to the examiner why you don't have any of those things.

Q. What other questions will the examiner ask?

A. The examiner may ask questions about your job – where you worked, who else worked there, whether the employer was aware of the domestic violence, whether your co-workers knew about the violence, whether there were threats or harassment at work, etc. The examiner may also ask if you made any attempt to keep your job. If the employer told you that you might lose your job, did you try to perform better? Did you try to manage absences or lateness? Did you ask your employer if you could transfer to another location?

The examiner may also ask questions about the domestic violence – where did it occur; how many times; when the most recent incident took place; whether you are separated from the abuser, etc. If you quit your job to relocate to get away from the abuser, the examiner may ask whether you have family in the area, whether you used to live with the abuser, where you are going to live or whether the police or advocate told you to move.

Q. What happens after the interview?

A. The examiner will consider any information and documents both you and your employer provide, and make a decision to grant or deny you benefits. If your claim is approved, you should receive your first benefit payment in three to four weeks and weekly after that, as long

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as you continue to meet the requirements and continue to call in or sign in online to claim weekly payments.

If your claim is denied, you will receive a “Notice of Determination of Ineligibility or Disqualification” in the mail telling you the reasons why. The notice will also explain for what period of time benefits are being denied, how to requalify and how to ask for a hearing.

Q. What can I do if my application for unemployment benefits is denied?

A. You may be able to appeal the decision if your claim is denied. This will require a hearing. Learn more about the Department of Labor’s [hearing process](#) and where you can go for [legal assistance](#) .

Q. What if domestic violence-related safety concerns force me to temporarily leave or relocate to another area in NYS, or another state, while I am receiving unemployment benefits?

A. Victims of domestic violence often need to move in order to secure greater safety and stability. If you have to leave your local job market, you should alert the Telephone Claim Center (TCC) of this change before relocating. You will then be advised whether your benefit rights can be protected during a temporary or permanent relocation. Failure to advise the TCC could result in a denial of benefits.

Q. What can I do if I have been discriminated against by my employer because I am a victim of domestic violence?

- A. You can file a discrimination claim with the NYS Division of Human Rights if you:
- Believe you have been fired because your employer learned that you are a domestic violence victim or learned that you have an order of protection - or because your abuser is coming to your workplace. (If your abuser violates the order of protection or becomes abusive at your workplace, the police should be called as with any other person who engages in misconduct in the workplace.)

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- Believe you have been discriminated against or treated any differently in any aspect of your employment because you are a victim of domestic violence. If you request time off to go to court, to move, or to seek assistance because of domestic violence and your employer typically allows employees to take time off for personal needs and family emergencies, then your request should not be denied.
- Believe you were denied needed time off for medical or mental health services. Unless this time off causes a significant hardship to your employer, you must be granted reasonable time off, and you may not be terminated. Your employer may request a note from the medical or mental health service provider, as long as the employer requires ALL employees to provide a note in circumstances that are similar but unrelated to domestic violence.

Note: It is illegal for an employer to take action against an employee who is a crime victim for taking time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection (N.Y. Penal Law § 215.14). This specific right is not enforced by the Division of Human Rights. However, it would be discriminatory under the Human Rights Law to treat a victim of domestic violence any differently than employees who need time off for other reasons.

Note: If you live in NYC or Westchester County, there is a local law that provides additional protections by requiring your employer to provide reasonable accommodations under certain circumstances. For more information, go to http://www.legalmomentum.org/assets/pdfs/kyr_trifold.pdf

Q. What are the benefits of filing a claim with the Division of Human Rights?

- A. The benefits include:
- ✓ You do not need to hire an attorney to file a claim.
 - ✓ If your claim is successful, you may be entitled to financial reimbursement.
 - ✓ If you have lost your job as a result of discrimination, you may be able to get your job back.

Note: It is against the law for an employer to take any action in retaliation for filing a complaint of discrimination.

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Q. How do I file a complaint with the New York State Division of Human Rights (DHR)?

A. See the Division's brochure ["How to File a Complaint."](#)

Note: The New York State Human Rights Law covers employers with four or more employees. A complaint must be filed with the Division within one year of the alleged discriminatory act. Domestic violence victims are protected with regard to employment actions taken on or after July 7, 2009.

Q. How can I increase my safety at work?

A. There are several options to consider when trying to increase your safety at work:

Order of protection:

If you are taking steps to get an order of protection, request that a provision be included to order your abuser to stay away from your workplace and to refrain from contacting you there.

If your employer is aware that you are a domestic violence victim, advise him/her of the order of protection and request assistance with enforcement of the order. This could include providing information about any violation of the order that occurs at work.

Workplace safety plan:

There are various steps that you can take to increase your safety. Some may not require that you tell your employer that you are a victim of domestic violence, but in some cases, you may/will need to tell your boss about your situation in order to ask for the changes you need. Because each situation is unique, you may find it helpful to speak with [a domestic violence advocate](#) who can help you develop an individualized safety plan.

The following are some suggested actions you can take to increase your safety at work:

- keep a photograph of the abuser and/or a copy of any order of protection in a confidential place at work
- advise trustworthy co-workers of your situation

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- make arrangements with security or the front desk to help make sure your abuser cannot come inside your place of work
 - provide copies of your order of protection to security personnel
 - put an emergency security response plan in place, including procedures for contacting the appropriate law enforcement agency
- request changes that may decrease risk:
 - temporarily or permanently relocate to a different desk, secure area or new work site
 - change your work schedule or shift; work varied hours
 - keep your work address or phone number private
 - keep your home address or phone number private
 - change your telephone number or extension, or route calls through a receptionist
 - establish a plan to respond to telephone, fax, e-mail or mail harassment
 - change your parking space
 - have a security escort for entering or exiting the building

For additional information on safety planning, see [“Safety Planning in the Workplace: Protecting Yourself and Your Job.”](#)

When you work for the same employer as your abuser:

Safety plans must address additional concerns if you and your abuser are working for the same employer. These might include your employer ensuring that your abuser can not have access to personnel information and advising the abuser that there will be consequences for any harassment, abuse, etc., at work, including disciplinary action or termination, where appropriate.

New York City laws:

If you are a survivor of domestic violence, sexual assault or stalking who works in New York City, the law says that your boss must make changes at work so that you can do your job and still be safe. This is called a “reasonable accommodation.” For more information on the NYC law, go to: http://www.legalmomentum.org/assets/pdfs/kyr_trifold.pdf

Q. Should I tell my employer?

A. This depends a lot on whether or not you think your boss can make any changes or provide any assistance that would help you feel safer or do better at work.

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You are not required to tell your boss that you are a domestic violence victim, however, certain changes to increase your safety at work would require this. Also, it is harder to prove discrimination if you have not told your employer that you are a victim because it could be difficult to determine how and when your employer found out about the violence.

Q. What are some advantages of telling my employer?

A. Telling your employer allows you to ask for assistance and accommodations at your worksite. This may help keep the workplace safer for you and your co-workers, and may help you continue to work at your job.

Telling might also help explain any performance problems related to the violence or stalking.

Q. What are some disadvantages to telling my employer?

A. Your employer might pressure you to leave your abuser or to get a protective order – this may not be the right step for you at this moment.

Your employer might fire you just because you are a victim of domestic violence. That would be against the law, but enforcing the law might be too difficult or time consuming. Keeping a steady paycheck might be more important for your present and future stability.

Telling might make the situation more public, which may be uncomfortable for you or may affect your safety.

Q. How do I decide whether or not to tell my employer?

A. There's no way to predict how an employer is going to react. If an employer has a specific policy for employees who are victims of domestic violence, this will tell you what procedures to follow and what protections are available to you. Any policies the employer has against workplace violence, sexual harassment or sex discrimination might give you an indication of how supportive your employer might be and how he/she will respond. Your observation of how flexible your employer usually is about work or personnel issues might also be a sign.

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If there is someone who you feel comfortable talking with who has the authority to help you, you might consider approaching this person for support in making this decision.

Q. Who might be able to help me at work?

A. Depending on how comfortable you are with disclosing the domestic violence, you may have resources at work to support and assist you. Some of these resource people may be required to keep this information confidential – you may want to clarify this before discussing your situation:

- Human resources/personnel staff
- Employee Assistance Program (EAP) staff
- Your bargaining representative/union

NYC employees:

In order to ask for a reasonable accommodation, you will need to disclose that you are a victim. Even though the NYC law requires that employers keep this information strictly confidential, there is no guarantee that the employer will comply with this requirement. For more information, go to:

http://www.legalmomentum.org/assets/pdfs/kyr_trifold.pdf

Q. Can I get legal assistance or other representation to help me obtain benefits, challenge a determination on the amount of weekly benefits, or appeal a denial?

A. The Department of Labor maintains a listing of legal services organizations, private attorneys and registered representatives that can assist you in obtaining benefits or appealing a denial of your unemployment insurance claim. Some of these providers provide fee-based services and some will provide services at no cost, if you qualify. Please note, the Appeals Board does not endorse, recommend or guarantee the work of any person or organization on the [list](#):

You may find an attorney or a representative in New York State by searching [LawHelp](#). In addition to helping you find an attorney, this site also provides information on your general unemployment insurance benefit rights and resources.

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Q. What other resources are available to help?

A. Domestic violence service providers:

If you experienced abuse from an intimate partner and would like information or assistance, please call the 24-Hour NYS Domestic and Sexual Violence Hotline. The hotline provides crisis intervention, counseling and referrals to local domestic violence service providers:

800-942-6906 (English)
800-942-6908 (Spanish)
800-818-0656 (English TTY)
800-780-7660 (Spanish TTY)

You may also go to the [NYS Coalition Against Domestic Violence](#) to locate an approved domestic violence program in your county.

Agencies or organizations that have information on domestic violence and the workplace:

NYS Office for the Prevention of Domestic Violence
518-457-5700
<http://www.opdv.state.ny.us/index.html>

Legal Momentum
212-925-6635
<http://www.legalmomentum.org/our-work/domestic-violence/know-your-rights.html>

NYS Division of Human Rights
718-741-8400
http://www.dhr.state.ny.us/pdf/trifold-domestic_violence.pdf

Empire Justice Center
585-454-6500
<http://www.empirejustice.org/issue-areas/domestic-violence/>

“Unemployment Benefits for Domestic Violence Victims: Frequently Asked Questions” was developed by the staff of OPDV, the NYS Coalition of Domestic Violence, Legal Momentum and the Empire Justice Center.