

# Unemployment Insurance Frequently Asked Questions

Employers

Unemployed

Wage & Hour

## **Employers**

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- How do I open an account for unemployment insurance and how is the new account rate determined?
- What do I have to do if I sell or close my business?
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- My business is being charged for unemployment insurance benefits. Why was I charged and how will this affect my experience rate? Is there anything I can do in the future to lower my rate?
- How can a former employee file a claim in more than one benefit year?
- Why does an employer need to complete Form D-254 requesting weekly wages when information was previously submitted on the Employers Quarterly Wage and Contribution Report?
- Why does an employer get Form D-254 for wage verification if the person never worked for them?

- On Form D-254 what does “Last day worked prior to this time period” mean?
- How does an employer complete Form D-254 if their workweek does not end on a Saturday?
- What does an employer do with Form D-254 if the claimant didn’t work for them during the weeks in question?
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- What is unemployment fraud?
- How does the Department investigate or determine benefits have been overpaid? How long does this process take?
- How does the Department investigate or determine benefits have been overpaid? How long does this process take?
- What are penalty weeks?
- How does a Claimant pay this bill?
- Can a Claimant set-up a payment plan?
- What legal action is taken to collect amounts owed the Vermont Department of Labor and will interest be charged?

**Q: When and how do I become liable to pay unemployment insurance?**

A: Liability (link to Responsibility for UI Coverage pg) varies depending on the type of business and wage payments. We have an on-line (link to online employer registration form) application to assist you with this process and registration.

**Q: How do I open an account for unemployment insurance and how is the new account rate determined?**

A: You can open an account on-line (link to online employer registration form) or by downloading and returning Form C-1, (link to pdf form C-1) Status Report. New employer rates (link to UI Tax Rates pg) are assigned by industry classification and full successor rates are based on the previous employer’s experience history of benefits charged against their account versus taxable payroll.

**Q: What do I have to do if I sell or close my business?**

A: You must notify us of ANY changes in your business structure. This can be done by completion of [C-36 form](#). (link to pdf C-36 change) Additionally, if a potential buyer of your business requests such, you must provide them with your experience rating.

**Q: How am I determined a successor and if I am, will I be eligible for a transfer of the predecessor’s rate?**

A: If you acquire substantially all the assets of an existing liable business and continue that business, you may be determined a full successor (link to successor employer / partial pg) and eligible for a

transfer of the predecessor's rate. A partial acquisition of an existing liable business, which you continue, is not eligible for a transfer and would be rated as a new employer.

**Q: How is my experience rate computed?**

A: Experience rates ([link to tax rates](#)) are computed annually and are effective July 1st through June 30th. They are calculated by using the employer's three most recently completed calendar years history (taxable wages divided by benefits charged against their account)

**Q: Are employee or employer contributions to cafeteria plans and 401K plans considered covered wages?**

A: The employer contributions are non-taxable. The employee contributions are taxable.

**Q: Are officer earnings, wages paid to spouses, etc., considered covered wages?**

A: Officers of corporations are employees of the corporation. You must report all gross wages paid to officers of the corporation. There are some situations where employment is exempt ([link to exempt employment definition](#)) from coverage.

**Q: My employees work in more than one state. Where do I report and pay my unemployment insurance?**

A: Generally wages are reported to the state in which the services are performed UNLESS the employee works in more than one state.

**Q: Why should I have to pay unemployment taxes if I'm the corporate officer?**

A: As an employee of the Corporation, you may be eligible for Unemployment Compensation benefits providing you meet all of the eligibility requirements.

**Q: How do I figure excess wages and taxable wages on my Employer's Quarterly Wage and Contribution Report?**

A: Excess wages are the wages paid to each employee above and beyond the taxable wage base. ([link to pdf C-30 - TWB](#)) Further information is provided under Filing UI Tax Reports ([link to Filing UI tax reports pg](#)) and C-101 and instructions. ([link to pdf](#))

**Q: Do I have to report a worker on my Contribution report if the total amount paid is under \$600.00, if I paid cash and/or was just "trying them out"?**

A: An employer must report all amounts paid to a worker if the work performed is covered under the Unemployment Compensation laws, regardless of the amount. Further information regarding proper reporting ([link to Responsibility for UI Coverage pg](#)) and covered employment is provided in the Employer's Manual.

**Q: Why can't the Vermont Department of Labor obtain wage amounts from the Vermont Tax Department?**

A: Because different tests exist for liability and covered employment. However, both Departments do

share information to insure compliance.

**Q: What generally determines which employer accounts will be audited?**

A: Just because you are selected for an audit, doesn't mean you have done anything wrong. Each quarter several accounts are randomly selected through an audit program to meet federally mandated requirements. An audit can still be conducted if the Department has reason to suspect an employer is not properly reporting its workers.

**Q: How much do I have to pay in UI taxes?**

A: For employers just starting a business, calculating the tax amount can be difficult, as various factors can alter the rate. To avoid improper calculation, you are encouraged to contact the field auditor ([link to pdf field auditor contact](#)) in your area or our Employer Services Unit.

**Q: Why do I get so many different forms from the Department related to Unemployment Insurance claims?**

A: The Department requests the following information from employers:

1. A Wage & Separation Data Request (Form B-70W) is mailed when we need wages that have not yet been reported to qualify a claimant under "monetary method" two or three. This request must be completed and returned within 10 days of the mailing date. Failure to do so will result in a penalty being assessed.
2. A Notice of Potential Charges to Your Unemployment Benefit Account (Form B-10NS) is mailed to all base period employers when a claimant is determined to be monetarily eligible for benefits, and the employer's account has been determined to be potentially liable for a percent of all the benefits paid.
3. A Request for Separation Data (Form B-8F or B-10S) is mailed to the claimant's most recent employer to determine the reason for the claimant's separation from the employer. Failure to return forms when required by the due date indicated will result in a penalty being assessed.

**Q: When is an employer required to respond to a Request for Separation Data B-10S or B-8F form?**

A: The employer is required to respond if:

- (B-10S form only) Gross wages paid to the individual, during the time period indicated on the form, are incorrect;
- The individual was fired or let go for reasons other than lack of work;
- The individual voluntarily quit, voluntarily retired, or separated due to a health reason;
- The individual received or will receive payments at separation time or related to separation;
- The individual is on family leave or was hired to cover for an worker on family leave;
- The individual still works part-time;
- The individual will not return to work on the date specified;
- The individual is receiving a monthly pension paid by the employer;
- The individual is currently working for an Educational Institution and the "Effective date" noted on

the form falls within a week of closure;

- You have reason to believe the individual should not be filing for benefits; or
- Was not the employer's employee or worked for someone else subsequently.

Instructions for completing requests for separation forms (B-8F or B-10S) ([link to Instruction for completing separation requests](#)) is also available.

**Q: If an employee quits, how can they collect?**

A: A former employee, who quits a job with the last employing unit, may collect benefits if it is found that the reason for the quit is attributable to the employer's action. One example of such action by the employer is failure to abide by the terms of the hiring agreement. The burden of proof ([link to pdf of burden of proof](#)) for this type of separation lies with the claimant. Only the separation from the last employing unit is potentially disqualifying.

**Q: How do you determine what the employer's percentage of liability for an employees' benefit amount is?**

A: The percentage of liability is equal to the percentage of wages paid by the employer in the base period. ([link to base period on Establishing an Unemployment Claim](#)) A taxable employer's account will only be relieved under certain circumstances. A reimbursable employer's account can only be credited for benefits charged when the claimant repays overpaid benefits.

**Q: My business is being charged for unemployment insurance benefits. Why was I charged and how will this affect my experience rate? Is there anything I can do in the future to lower my rate?**

A: Benefits are paid from the Unemployment Compensation Trust Fund and are charged proportionally to the experience rating ([link to UI tax rate](#)) record of the base periods ([link to base period on Establishing an Unemployment Claim](#)) employers. Benefit charges against your account will likely increase your rate. It is difficult to predict exactly how much the impact will be, as there are variables in the formula. To lower your rate, ([link to reducing cost of UI](#)) benefit charges would need to be lowered or eliminated.

**Q: How can a former employee file a claim in more than one benefit year?**

A: A former employee cannot establish two benefit years at the same time. Once one benefit year (a period of 1 year beginning when the claimant originally establishes a new claim) ends, a new benefit year may be established only if the individual has had additional employment and was paid the required wages in the new base period. Wages not used in determining the weekly benefit amount for the previous benefit year may fall within the new benefit year established. In such cases, the employer would be proportionally charged again unless the claimant separated under disqualifying circumstance before the new benefit year was established.

**Q: Why does an employer need to complete Form D-254 requesting weekly wages when information was previously submitted on the Employers Quarterly Wage and Contribution Report?**

A: On the Contribution Report, wages are reported quarterly while payment is issued weekly, thus

the employer's weekly breakdown of wages earned from employment beginning on Sunday and ending on Saturday is critical to the case. This detailed information will identify which weeks, if any, have been improperly paid and will allow the Department to take action against those who have received improper payments for failure to report gross wages earned. In such cases, the individual will be required to repay the benefits, and the taxable employer's account will be credited with its portion of the improperly paid dollar amount.

**Q: Why does an employer get Form D-254 for wage verification if the person never worked for them?**

A: This occurs when an employer submits an incorrect social security number on the quarterly wage report or when the Department of Labor transposes a social security number upon entry into the Department's wage file. When this occurs, the employer should simply return the form, making reference the individual was never employed by that business.

**Q: On Form D-254 what does "Last day worked prior to this time period" mean?**

A: We are looking for separation information relative to the weeks indicated on the form. If the claimant did not separate from employment during the weeks indicated, annotate "N/A". If you have further questions regarding proper completion of audit forms, please contact the Program Integrity Unit at 802-828-4333.

**Q: How does an employer complete Form D-254 if their work week does not end on a Saturday?**

A: For hourly employees, the most accurate way to do this is to indicate how many hours were worked during each of the days indicated on the form. Once the employer has done this, the employer can usually multiply the number of hours by the hourly rate, considering any differentials or overtime rates. When using this method, it is not uncommon for the form to have hours and gross wages indicated in each of the daily boxes. For example: 5.5/\$55 would translate into the person working 5.5 hours, (hourly rate of \$10), resulting in total gross wages of \$55.00.

**Q: What does an employer do with Form D-254 if the claimant didn't work for them during the weeks in question?**

A: Check the appropriate box on the form indicating claimant did not work during the weeks requested and then return the form in the envelope provided to prevent future request for the wage information.

**Q: What does the term "lack of work" mean?**

A: The only time a separation is considered to be "lack of work" is when there is no work available. If an individual leaves employment and the employer immediately or shortly thereafter hires a replacement, the reason for separation is something other than "lack of work." If it's the worker who initiated the separation, generally it would be viewed as a "voluntary quit." If it's the employer who initiated the separation for reasons other than lack of work, generally the separation would be viewed as a discharge. Whether or not the separation is such to qualify an individual to receive unemployment benefits will be determined through a fact-finding process or response/non-response

from the separating employer.

**Q: What is expected of the employer when an individual is separated due to lack of work?**

A: Every time an individual opens or re-opens a claim following a separation from employment, a form is sent to the separating employer requesting certain information. Included on the form is a list of situations where the employer must respond timely. In many cases, if none of the conditions are met, the employer does not have to respond to the separation form, after which the individual's benefits will be released for payment provided no other issues have been identified. If the reason for separation is other than lack of work, the employer must respond to the separation form within 10 day to avoid a penalty and assessment of benefit charges.

**Q: What if a "return to work" date has been provided?**

A: When an unemployed worker opens or re-opens their claim, he or she will be asked if there is a specific "return to work" date. This date cannot be estimated; it must be a fixed date when work will be available. Depending on the duration the individual will be unemployed, he or she may be expected to look for work. If suitable work is found or offered while the individual is filing, he or she will be expected to accept it or face disqualification of benefits. Once work again becomes available for the laid off worker, he or she is free to return to the prior full-time employment.

**Q: What are the employer's responsibilities to validate or report "return to work" dates?**

A: When the employer is responding to a separation notice, it is imperative that the employer validate the "return to work" date indicated if the worker provided one. If the date indicated is incorrect, the employer must correct it, either by return of the form or use of VDOL's web "Employer Portal", accessible by the link provided on the left-hand side of all VDOL web pages.

**Q: What are the employer's responsibilities associated with lack of work?**

A: When lack of work exists, the employer must:

- Review the separation form when received to insure all information contained is correct
- Carefully review the conditions that require a timely response
- If there is a "return to work date," keep the Department and worker informed of any changes
- Utilize VDOL's web "Employer Portal" (accessible on left-hand side of all VDOL web pages) to advise of any "return to work" updates or changes
- Contact the Department if the worker does not return to work when called back or refuses suitable work; further information on offering suitable work is provided by clicking here.

**Q: What are the claimant's responsibilities associated with lack of work:**

A: If there is a "return to work date," then the claimant must:

- Keep the Department informed of any changes
- Remain able and available for work at all times
- Look for work when directed to do so
- Accept all suitable work when offered;
- Report when filing weekly claims all gross wages earned

- Report to VDOL any of the situations detailed in the “Responsibility” section of your Claimant Handbook. ([link to claimant handbook](#))

**Q: What is the Unemployment Fact-finding and Adjudication process about?**

A: The fact-finding and Adjudication is a process dedicated to gathering the facts from interested parties, including the employer and the unemployed worker. Burden of proof ([link to pdf Burden of Proof Information](#)) is used to help determine eligibility but is dependent on the type of issues. Once the facts have been gathered, a determination will be issued and sent to all interested parties. Should any interested party disagree with the determination, an appeal can be filed. Further information on this process may be obtained by clicking here. ([link to eligibility determination pg](#))

**Q: How can a person file for UI benefits and work at the same time? What can be done about it?**

A: An individual may work and file for partial unemployment benefits, providing he/she reports gross monies earned for each week filed. The person is entitled to earn up to forty dollars (\$40) or thirty percent (30%) of his/her current weekly benefit amount (WBA), whichever is greater, without a reduction in the WBA. This is called Disregarded Earnings.

**NOTE:** The Disregarded Earnings calculation method will change July 1, 2012. Any amount above the Disregarded Earnings amount is deducted dollar-for-dollar from the current WBA and the person is paid a partial benefit.

In order to identify those individuals who fail to report earnings while filing for unemployment, this department has programs in place that will cross match data against weeks, which have been filed. If it appears that benefits have been paid improperly, further information is requested. If payments are later determined to be improper, the claimant will be required to repay the benefits and contributory employer accounts are adjusted accordingly.

Anyone who suspects a person is working and failing to report earnings, while also filing for unemployment compensation, should contact this department’s Program Integrity Unit at (802) 828-4333 or transmit a completed fraud report. ([link to page on fraud information](#))

**Q: What is unemployment fraud?**

A: Unemployment fraud is when it is suspected a person has inappropriately received unemployment insurance benefits. The most common form of unemployment fraud is when a person is working under the table or full time while also receiving unemployment benefits.

Anyone who suspects a person is working and failing to report earnings, while also filing for unemployment compensation, should contact this department’s Program Integrity Unit at (802) 828-4333 or transmit a completed fraud report. ([link to page on fraud information](#))

**Q: How does the Department investigate or determine benefits have been overpaid? How long does this process take?**

A: The Department has various ways to obtain the necessary information to conclude if payment of unemployment benefits was proper. Generally, audits are completed within 45 days. However, the

following situations may result in delays: non-response or uncooperative claimants/employers to requested information, claimant lives or is working out of state, residency changed/seasonal resident, and/or bankruptcy issues.

**Q: What are penalty weeks?**

A: Penalty weeks are an administrative penalty that is assessed when it is determined the claimant intentionally misrepresented a material fact, which lead to receiving benefits improperly; this is in addition to owing the monetary amount of overpaid benefits. Penalty weeks are the Department's consequence for falsifying an Unemployment Insurance claim. The maximum amount of penalty weeks that can be assessed on a determination is twenty-six (26) weeks. They will impact future receipt of Unemployment Insurance benefits for three years from the date in which they were assessed. Any claim that has the dollar value of a \$1.00 or more is equal to (1) penalty week. Whatever the dollar value of the claim is, such amount is deducted from the maximum benefit balance. Employers are not charged for penalty weeks claims.

**Q: How does a Claimant pay this bill?**

A: The Program Integrity Unit has collectors who manage delinquent accounts. If you are unable to pay the amount you were billed, you must contact us immediately by calling 802-828-4333 to make other arrangements.

**Q: Can a Claimant set-up a payment plan?**

A: Yes, by contacting the collector handling your account. If you don't know who that collector is, contact the Program Integrity Unit's general line at 802-828-4333.

**Q: What legal action is taken to collect amounts owed the Vermont Department of Labor and will interest be charged?**

A: That depends on whether the amounts owed are stemming from an overpayment of previously paid Unemployment Insurance benefits or from unpaid taxes, interest, penalties, or liens.

**Unemployed**

- How does an unemployed worker (claimant) establish a claim or re-open an existing claim?
- Why does a claimant have to look for work when (s)he just lost a job?
- Why does a claimant have to register with the local unemployment office?
- Where does an individual file if they live outside Vermont but worked in Vermont?
- Why is there, a 10-day hold before an unemployment payment will be issued?
- How can claimants determine the status of their payments?
- What does it mean when the claimant receives notice that there is an issue on a claim?
- What will the determination be based on and what if an interested party does not agree with the determination?
- How does a claimant change their mailing address?
- How does a claimant receive a payment or file a weekly unemployment claim?
- How does a claimant working part-time properly report his/her gross wages while filing for Unemployment Insurance benefits?

- Why did the Department pay money if the claimant wasn't entitled to it?
- What happens when taxes have been withheld from an unemployment check that has been determined to be overpaid?
- Why would the Tax Department attach more money than what was owed and/or how does a non-debtor spouse request a pro-ration?
- How can a claimant receive a credit on their Federal Tax return after an overpayment has been paid?

**Q: How does an unemployed worker (claimant) establish a claim or re-open an existing claim?**

A: If a claimant has not filed an unemployment claim within a year, they must call our Unemployment Claim Center's Initial Claim line at 1-877-214-3330. If the claimant previously established a new claim and such benefit year is still valid, in many cases the claim can be re-opened online. Click here ([link to establishing an unemployment claim](#)) to obtain further information about both processes.

**Q: Why does a claimant have to look for work when they just lost a job?**

A: If the claimant does not have a job to return to within a certain period of time, (s)he must immediately begin looking for other employment, by making AND documenting at least 3 job contacts every week. Unemployment is temporary income to help tide a claimant over until suitable work can be found. While making job contacts, the claimant must document efforts. The work search report ([link to pdf of B-82 Work Search Report](#)) provides the necessary information the claimant is required to document.

**Q: Why does a claimant have to register with the local unemployment office?**

A: All claimants who file an unemployment claim must register for work, which is one method of indicating the claimant is able and available. In many cases, this registration is done automatically. However, in other cases, further information is needed, at which time the claimant is provided notice requiring him or her to complete the registration process within a certain time period. If a claimant moves out of state, they MUST register in that state, with or without prompting by the Department of Labor.

A list of other state Resource Center offices ([link to pdf B-114 One-Stop Center Websites For Claimants who Relocate Out-of-State](#)) is provided.

Any time a claimant is not appropriately registered for work, they fail to meet one of the eligibility requirements and will be denied benefits.

**Q: Where does an individual file if they live outside Vermont but worked in Vermont?**

A: When work is performed in Vermont, the individual has a right to establish a new claim by calling our Initial Claims line at 1-877-214-3330.

**Q: Why is there a 10-day hold before an unemployment payment will be issued?**

A: With the exception of claims filed immediately following a separation, generally eligible claims are

processed upon receipt. However, any time there has been a separation from employment, the Department must provide the employers involved in the claim ample opportunity to advise the Department of any potential adverse information that could affect entitlement to benefits. If the employer responds with no adverse information prior to the 10-day hold period expiring, the payment will be processed promptly. However, if the employer responds with adverse information, fact-finding must be conducted, and the claimant (and in some cases the employer) will be contacted for further information.

**Q: How can claimants determine the status of their payments?**

A: The claimant can check on the payment status of their unemployment payment on-line ([www.labor.vermont.gov](http://www.labor.vermont.gov) - Claimant Applications) or by calling the toll free Weekly Continued Claims Line at 1-800-983-2300 and selecting option 2. If there is an issue on a claim that is delaying payment, the claimant will be notified accordingly.

**Q: What does it mean when the claimant receives notice that there is an issue on a claim?**

A: An issue is a situation that must be resolved to determine proper eligibility for Unemployment Insurance benefits. Once the issue is resolved, a determination is generally done, especially in cases where the issue results in a denial of Unemployment Insurance benefits. There are numerous types of issues that could impact a claim. Generally issues are resolved through a fact-finding process conducted by Claims Center staff. During low periods of unemployment, it takes an average of 10 days to resolve most issues; during high periods of unemployment (typically during the winter months) it will take longer to resolve most issues.

**Q: What will the determination be based on and what if an interested party does not agree with the determination?**

A: Information about the Claims Adjudication Process ([link to Issues with Claims](#)) best explains the overall steps taken to resolve an issue. Any interested party who receives a determination has the opportunity to file an appeal ([link to appeals](#)) if they disagree.

**Q: How does a claimant change their mailing address?**

A: The claimant must complete and return the Claimant Change of Name and Address ([link to pdf B-2 Claimant Change of Name, Address](#)) form. All address changes must be requested in writing.

**Q: How does a claimant receive a payment or file a weekly unemployment claim?**

A: Payments will only be considered upon receipt of a weekly claim. This can be done on-line ([www.labor.vermont.gov](http://www.labor.vermont.gov) - Claimant Applications) or by calling our toll free Weekly Continued Claims Line. ([link to filing a UI claim](#))

**Q: How does a claimant working part-time properly report his/her gross wages while filing for Unemployment Insurance benefits?**

A: Claimants are required to report any gross wages earned from employment, beginning on Sunday through Saturday of the week being claimed. The most common mistake made is erroneously reporting money when it's paid, and not when earned. The department provides a worksheet, ([link to](#)

pdf How to Properly Report Gross Wages) which will assist claimants with reporting. Anyone with questions regarding proper reporting of gross wages should contact the Claims Center. (Claimants should call 1-877-214-3332; employers should call 1-877-214-3331).

**Q: Why did the Department pay money if the claimant wasn't entitled to it?**

A: Unemployment Insurance benefits must be paid when due. These benefits are originally paid based on the information provided by the employer and the claimant following a separation. Thereafter, it is paid based on information the claimant certifies each week when filing his/her weekly claim. If the claimant has not provided truthful information, or received disqualifying remuneration, which is later discovered, the benefits then become overpaid.

**Q: What happens when taxes have been withheld from an unemployment check that has been determined to be overpaid?**

A: Once an Unemployment payment has been processed, with Federal and State taxes withheld, the taxes withheld are immediately transferred to the respective agencies, on behalf of the claimant. Therefore, the only way to avoid having to repay the taxes withheld (if the week is determined to be overpaid) would be to return the actual Unemployment Insurance check. If the UI check is returned, we will notify the respective agencies to cancel the previous tax credit. If the UI check has already been cashed or processed through direct deposit, it will then be necessary for the worker to repay the tax credit already given, for which he/she was not entitled to, based on the overpayment determination.

**Q: Why would the Tax Department attach more money than what was owed and/or how does a non-debtor spouse request a pro-ration?**

A: Once the Department of Taxes has attached the refund, the Vermont Department of Labor must process it, after which Labor will issue a check for any amounts attached exceeding the actual amount owed. Generally a notification of pro-ration to the non-debtor spouse is received from the Tax Department after the original refund has been processed. Refund checks in either case are usually processed and mailed within 2-4 working days from the receipt of the appropriate information.

**Q: How can a claimant receive a credit on their Federal Tax return after an overpayment has been paid?**

A: Instructions for this credit are included in the Federal Tax booklet. In past tax years the IRS has indicated if the overpayment is repaid in the same tax year that the original UI benefits were received, the taxpayer can report the net difference as income on their tax return. If the overpayment was repaid in a different tax year than when the money was received, the tax payer will have to file a Schedule A form.

You should always refer to the Federal Tax instructions for directions as these requirements may have changed. If you have further questions, you should contact the IRS.

All 1099 forms, by Federal rules and regulations, must include all monies paid in Unemployment Insurance benefits - even if those monies have been repaid in full. However, the 1099 does not

include any amounts of money that were used to “offset” the debt, so the worker cannot claim any “offset credits” as a repayment credit when filing his/her tax return.

**Q: What is the Unemployment Fact-finding and Adjudication process about?**

A: Fact-finding and Adjudication is a process dedicated to gathering the facts from interested parties, including the employer and the unemployed worker. Burden of proof (link to pdf Burden of Proof Information) is used to help determine eligibility and is dependent on the type of issues. Once the facts have been gathered, a determination will be issued and sent to all interested parties. Should any interested party disagree with the determination, an appeal can be filed. Further information on this process may be obtained by clicking here. (link to Eligibility Determinations page)

**Q: How can a person file for UI benefits and work at the same time? What can be done about it?**

A: An individual may work and file for partial unemployment benefits, providing he/she reports gross monies earned for each week filed. The person is entitled to earn up to forty dollars (\$40) or thirty percent (30%) of his/her current weekly benefit amount (WBA), whichever is greater, without a reduction in the WBA. This is called Disregarded Earnings. NOTE: The Disregarded Earnings calculation method will change July 1, 2012. Any amount above the Disregarded Earnings amount is deducted dollar-for-dollar from the current WBA and the person is paid a partial benefit.

In order to identify those individuals who fail to report earnings while filing for unemployment, this department has programs in place that will cross match data against weeks, which have been filed. If it appears that benefits have been paid improperly, further information is requested. If payments are later determined to be improper, the claimant will be required to repay the benefits and contributory employer accounts are adjusted accordingly.

Anyone who suspects a person is working and failing to report earnings, while also filing for unemployment compensation, should contact this department’s Program Integrity Unit at (802) 828-4333 or transmit a completed fraud report. (link to page on fraud information)

**Q: What is unemployment fraud?**

A: Unemployment fraud is when it is suspected a person has inappropriately received unemployment insurance benefits. The most common form of unemployment fraud is when a person is working under the table or full time while also receiving unemployment benefits.

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requested information, claimant lives or is working out of state, residency changed/seasonal resident, and/or bankruptcy issues.

**Q: What are penalty weeks?**

A: Penalty weeks are an administrative penalty that is assessed when it is determined the claimant intentionally misrepresented a material fact, which lead to receiving benefits improperly; this is in addition to owing the monetary amount of overpaid benefits. In other words, penalty weeks are the department's consequence for falsifying an Unemployment Insurance claim. The maximum amount of penalty weeks that can be assessed on a determination is twenty-six (26) weeks. They will impact future receipt of Unemployment Insurance benefits for three years from the date in which they were assessed. Any claim that has the dollar value of a \$1.00 or more is equal to (1) penalty week. Whatever the dollar value of the claim is, such amount is deducted from the maximum benefit balance. Employers are not charged for penalty weeks claims.

**Q: How does a claimant pay this bill?**

A: The Program Integrity Unit has collectors who manage delinquent accounts. If you are unable to pay the amount you were billed, you must contact us immediately by calling 802-828-4333 to make other arrangements.

**Q: Can a claimant set-up a payment plan?**

A: Yes, by contacting the collector handling your account. If you don't know who that collector is, contact the Program Integrity Unit's general line at 802-828-4333.

**Q: What legal action is taken to collect amounts owed the Vermont Department of Labor and will interest be charged?**

A: That depends on whether the amounts owed are stemming from an overpayment of previously paid Unemployment Insurance benefits or from unpaid taxes, interest, penalties, or liens.

**Wage & Hour**

- What labor law posters are required to be posted in a workplace?
- What is minimum wage?
- When is my pay due if I've been fired or laid off?
- Does my employer have to pay the Vermont minimum wage or the Federal minimum wage?
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- My employer let me go and did not give me any reason (or gave me an unfair reason). What can I do?
- If I quit or am discharged, will I receive pay for vacation or sick leave?
- What happens to my pension if I quit my job, am fired, or if my employer goes out of business?
- If I work more than 40 hours a week do I automatically get overtime pay?
- If I work a holiday am I entitled to time and a half?
- What determines overtime hours?

- I'm on salary. When I take a day off my employer reduces my salary, and when I work overtime my employer does not pay extra. What can I do?
- Can my employer suspend me without pay?
- Can my employer take money out of my wages to cover cash register shortages or damages?
- Can my employer make me pay for my uniform?
- Can my employer require I work mandatory overtime? Can my employer require me to work 8 days in a row without a day off?
- Can my employer fire me or lay me off without notice?
- Am I entitled to severance pay if I get laid off without notice?
- Is it legal for my employer to change the hours on my time card?
- Is my employer required to provide me with rest periods or lunch breaks?
- I earn wages plus a sales commission. I have received my regular wages but I am owed commissions for two months. How can I collect?
- What work can a teenager perform?
- What if I have questions that are not answered on this page?

**Q: What labor law posters are required to be posted in a workplace?**

A: Employers are required to post in a common area, posters with information pertaining to:

- Minimum wage
- Sexual harassment
- Child labor
- Workers compensation
- Reinstatement liability
- Parental leave
- Safety and health protection on the job
- Healthcare whistleblower protection
- Unemployment insurance
- Workplace smoking.

These posters can be found under Forms, at Wage & Hour.

**Q: What is minimum wage?**

A: Minimum wage will change yearly based upon legislation enacted in 2005. To review current and future minimum wage rates click here [minimum wage \(link to pdf WH-11 Minimum Wage Rate 2013\)](#)

**Q: When is my pay due if I've been fired or laid off?**

A: An employee who has been discharged from employment shall be paid within 72 hours of the discharge. An employee who voluntarily leaves employment shall be paid on the last regular payday, or if there is no regular payday, on the following Friday.

**Q: Does my employer have to pay the Vermont minimum wage or the Federal minimum wage?**

A: All employers doing business in Vermont are required to pay at least Vermont's current minimum wage. Exemptions from state minimum wage, include, but are not limited to:

- Full-time high school students
- Agriculture workers
- Taxi cab drivers
- Outside salespersons
- Newspaper or advertisement home delivery persons
- Persons employed in the activities of a publicly supported
- Non-profit organization (except laundry employees and nurses aides or practical nurses)
- A person employed in a bona fide executive, administrative, or professional capacity
- A person employed in domestic service in or about a home
- A person employed by the United States

Although full-time high school students are exempt from Vermont's minimum wage requirement, federal law provides for a minimum compensation for these students.

These exemptions are ONLY from Vermont minimum wage law, and don't include federal. Please call the federal Department of Labor for further information at (802) 951-6283.

**Q: Can an employer pay an employee through an electronic deposit?**

A: Yes, but the employer must get written authorization from the employee. Once the employee has agreed, then the employer may pay their wages by deposit through an electronic funds transfer, or through another direct deposit system such as a checking, savings or other deposit account maintained by the employee in any financial institution within or without the state.

**Q: Can an employer issue an electronic wage statement?**

A: Yes the employer may provide an electronic itemized wage statement in lieu of a paper statement provided:

- The employer obtains written authorization from employee pursuant
- The statement is made available at the time wages are paid
- The statement can be accessed and printed by the employee at no cost to the employee, and
- Measures are taken by the employer to protect confidential information from access by anyone other than the employee.

**Q: Can an employer pay an employee wages with a debit card?**

A: No. Vermont law doesn't permit wages to be paid via debit card. Wages must be paid in cash or check, as defined in the Vermont UCC (Uniform Commercial Code).

**Q: My employer let me go and did not give me any reason (or gave me an unfair reason). What can I do?**

A: Under Vermont law an employer is not required to provide their reason for termination. If you were discriminated against based on age, sex, race, creed, national origin, physical or mental impairment, pregnancy or sexual preference, you should contact the Civil Rights Division (link to <http://www.labor.vermont.gov/Default.aspx?tabid=157>) of the Attorney General's Office at 802-82-3657. For any other reason you must consult with a private attorney.

**Q: If I quit or am discharged, will I receive pay for vacation or sick leave?**

A: Your employer does not have to pay you unless he/she had provided you with a written statement agreeing to pay for earned, but unused time. If you feel you meet the terms and conditions provided in the employer's written statement of benefits, but did not receive payment, you may complete a wage claim form.

**Q: What happens to my pension if I quit my job, am fired, or if my employer goes out of business?**

A: Most private pension plans are covered by the federal Employee Retirement Income Security Act (ERISA), not by state law. The Employee Benefits Security Administration (EBSA) of the U.S. Department of Labor is responsible for regulations in this area. Call (617) 569-9600 or visit the EBSA website at <http://www.dol.gov/ebsa>.

**Q: If I work more than 40 hours a week do I automatically get overtime pay?**

A: Employees are generally due overtime pay of one and one-half times the regular wage rate for work performed in excess of 40 hours during a workweek. Under Vermont law, however, exceptions to overtime pay requirements include employment in retail, service, hotels recreation, hospitals or nursing homes. Employment that is not subject to Vermont overtime requirements may be subject to federal overtime, if the work is in interstate commerce (eg. credit card transactions); or, in a business with an annual gross volume of sales of \$500,000 or more. Additional federal information is available from the Federal Wage and Hour Office in Burlington at 802-951-6283 or in New Hampshire at 603-666-7716.

**Q: If I work a holiday am I entitled to time and a half?**

A: Not necessarily. Holidays and Sundays are normal workdays insofar as wage and hour laws are concerned, unless your employer has a written agreement stating otherwise.

**Q: What determines overtime hours?**

A: Overtime is usually based on more than 40 hours of actual work per week. Benefit hours are separate and should be shown as separate in the payroll records. For example, if you actually worked 36 hours in a workweek and had 8 hours off, paid for a holiday, you are NOT entitled to overtime.

**Q: I'm on salary. When I take a day off my employer reduces my salary, and when I work overtime my employer does not pay extra. What can I do?**

A: Although salary agreements are not covered directly under Vermont law, an employer is required to pay the minimum wage, unless the position is exempt as a bona fide executive, administrative, professional.

Therefore, unless salaried-exempt, you are entitled to the minimum wage for hours worked. If you are truly exempt then you are due your salary, but not entitled to overtime.

For further information concerning federal law concerning salaried employees you should contact

the Federal Wage and Hour Office in Burlington at 802-951-6283 or in New Hampshire at 603-66-7716 concerning their written reference to “salaried employees” in the Federal Fair Labor Standards Act for overtime exemption purposes.

**Q: Can my employer suspend me without pay?**

A: Yes, under Vermont law, an employer can suspend you without pay as long as there is no violation of the terms and conditions of a written policy. You should also contact the Federal Wage & Hour Office at 802-951-6283 or 603-666-7716, regarding federal law.

**Q: Can my employer take money out of my wages to cover cash register shortages or damages?**

A: No, your employer cannot do this. You can either inform your employer that there is no provision in the law that allows them to do this, or you can contact the Wage & Hour Program.

**Q: Can my employer make me pay for my uniform?**

A: An employer may not deduct from an employee’s wage any amount for providing or maintaining required apparel, including a uniform, nor shall any other compensation pass to any employer from an employee for required apparel, including a uniform or the maintenance of one, unless the employee voluntarily consents to such deduction or compensation in writing and such deduction does not:

- Reduce the total remuneration received by an employee below the hourly minimum wage;
- Include any administrative fees or charges; and
- Amend, nullify or violate the terms and conditions of any collective bargaining agreement.

**Q: Can my employer require I work mandatory overtime? Can my employer require me to work 8 days in a row without a day off?**

A: Vermont law places no limits on the number of hours an employer can require an employee to work. Absent a written agreement or a union contract, an employer has complete discretion to require mandatory overtime.

**Q: Can my employer fire me or lay me off without notice?**

A: Yes, unless it is a massive layoff or plant closure, in which case you should contact the U. S. Department of Labor at 202-535-0577, or VT Department of Labor at (802) 828-4177.

**Q: Am I entitled to severance pay if I get laid off without notice?**

A: Severance pay is considered a benefit insofar as wage and hour laws are concerned and individuals are not entitled to it unless the employer has a written agreement to provide it.

**Q: Is it legal for my employer to change the hours on my time card?**

A: Vermont law does not cover time cards. Time cards are considered a means for an employer to obtain actual hours of work for the payroll. Payroll records, by law, must show accurate hours of work. You may wish to contact the Federal Wage and Hour Office in Burlington at 802-951-6283 or

in New Hampshire at 603-666-7716 in reference to the provision of the Fair Labor Standards Act regarding time clocks.

**Q: Is my employer required to provide me with rest periods or lunch breaks?**

A: Vermont law requires an employer provide “reasonable opportunities” to eat and use toilet facilities. However, neither Vermont nor Federal law specify a minimum break period nor identify what a “reasonable opportunity” is. Rest periods and lunch breaks are provided at the discretion of the employer or under the terms and conditions of a bargaining agreement, such as a union contract. There is no restriction (except for child labor purposes) on the number of hours and days an employee may be made to work without a rest period.

The employer may select the time or hour of the break(s.) Federal law does state that if an employer provides a lunch break, it must pay the employee unless the break is at least 30 minutes in duration (if the lunch break is 30 minutes or longer, employees do not have to be paid for that time)

**Q: I earn wages plus a sales commission. I have received my regular wages but I am owed commissions for two months. How can I collect?**

A: Commissions are considered wage supplements or benefits. The Vermont Wage & Hour Program can investigate and review wage complaints, however, program jurisdiction is limited with regard to such benefits. If you have a written agreement clearly establishing your right to wage supplements or commissions, then we can investigate your claim and pursue it with your employer.

**Q: What work can a teenager perform?**

A: Child labor rules detail the work permitted under the age of 18.

- Ages 16-18 may work at non-hazardous jobs, outside of school hours.
- Ages 14-15 prohibited from work in manufacturing, mining or work deemed hazardous.
- Ages 12-13 may work at an agricultural job, non-hazardous, with parental permission
- Under age 12 may work at agricultural job if farm is FLSA “small farm” exempt and work is non-hazardous and with parental permission.

There are restrictions on work hours per day, and per week.

**Q: What if I have questions that are not answered on this page?**

A: The Wage & Hour Program at the Vermont Department of Labor is able to answer any questions that you may have. Feel free to give us a call at 828-0267 or email us.