



VIRGINIA  
LEGAL AID  
SOCIETY

## UNEMPLOYMENT COMPENSATION

Unemployment compensation is a state program to help workers who are unemployed through no fault of their own. It is run by the Virginia Employment Commission (VEC).

### **How do I file for unemployment benefits?**

If your employer is laying off a group of employees at the same time, arrangements may have been made for Virginia Employment Commission (VEC) staff to come to your worksite at a specified time and date to take your claim for benefits. Your employer will be able to provide you with this information.

If you are not part of a group layoff, or if no special arrangements have been made, you apply by reporting in person to your nearest office of the VEC.

- Be sure to take identification with you.
- You will complete an application for benefits, talk with an interviewer, receive your monetary determination and be given specific instructions as to your rights and responsibilities while claiming benefits.
- You will also have the opportunity to ask questions.

You may also apply by phone by calling toll-free 1-866-832-2363. If you have access to the internet, you may apply online at [www.vec.virginia.gov](http://www.vec.virginia.gov).

### **What information is required to file a claim for benefits?**

You will be required to provide your Social Security number, address and telephone number, your most recent employer's name, address and telephone number, and the reason you are no

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longer employed. In some cases, you will be required to provide information concerning previous employers. You will be asked to provide certain information that is required for statistical purposes. If you file your claim through the VEC Workforce Center, you will be required to present proof of your Social Security number. If you were employed by the Federal government as a civilian during the last 18 months, you will be required to present your SF50. If you were in the military during the last 18 months, you will be required to present your DD214.

## **Grounds for Unemployment Compensation in Virginia**

1. Must have an earnings record to be eligible. Virginia requires that a claimant have earned at least **\$3,000** in the two highest quarters of the base period combined to be eligible.
2. Must have a qualification decision. Once a claimant files for unemployment benefits, the claimant will have a fact-finding interview with the deputy. The deputy will issue a decision which states whether the claimant is qualified to receive benefits.
  - An applicant will not qualify for benefits if any of the following is applicable:
    - An applicant voluntarily quits a job (without good cause).
    - An applicant was terminated for a willful misconduct.
    - An applicant tests positive for a non-prescribed controlled substance, conducted in accordance with an employer's bona fide drug policy that complies with U.S. Department of Transportation drug screening.

### **Is there a waiting period before I can collect benefits?**

Yes, there is a one-week waiting period which cannot begin until the claim is filed. You must meet all eligibility requirements to receive credit for the waiting period week.

### **How much will my benefit be?**

Benefit amounts range from \$60.00 per week to \$378.00 per week. When you file your claim you will receive a computer printout called a monetary determination, which lists your employers and wages for the base period, your weekly benefit amount, and your maximum total benefit.

### **How long can I draw benefits?**

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Benefit durations range from 12 weeks to 26 weeks. The duration of your benefits will also be found on your computer printout. Under certain special circumstances, you may be entitled to benefits for a number of weeks beyond 26.

### **How do I get paid?**

Once your initial claim is filed in the VEC office, weekly claims for benefits may be made over the phone. You will be paid either by direct deposit or debit card for each week that you claim benefits and meet the eligibility requirements. If you need help applying for a Virginia Debit MasterCard, the VEC will assist you.

### **How are my benefits computed?**

In order to qualify for benefits, you must have earned enough wages in covered employment during the base period. The amount of wages you earned will determine your Weekly Benefit Amount and the maximum number of weeks (12 to 26) to which you will be entitled. You will be issued a Monetary Determination that contains your base period wage information.

### **What is a “base period?”**

The base period is the first four of the last five completed calendar quarters prior to the effective date of your claim. You must have earned at least **\$3,000** in wages in the two highest "calendar quarters" in a recent one-year period called the "base period." A calendar quarter is any of these three-month periods: January through March, April through June, July through September, and October through December. Usually, your base period is the first four of the last five completed calendar quarters. The wages earned in the base period determine your monetary entitlement.

Using this rule, this is how you figure your base period:

**If you apply in:**

January - March, this year.

April - June, this year.

July - September, this year.

October - December, this year.

**Your base period is:**

January – September, last year, and

October - December previous year.

January - December, last year.

January - March, this year, and April -

December, last year.

January - June this year, and July -

December, last year.

### **What if I have worked only recently?**

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If you don't have enough earnings in the first four of the last five completed calendar quarters, your base period is the last four completed calendar quarters. Using this rule, this is how you figure your base period:

**If you apply in:**

January - March, this year.

April - June, this year.

July - September, this year.

October - December, this year.

**Your base period is:**

January - December, last year.

January - March, this year, and April - December, last year.

January - June this year, and July - December, last year.

January - September, this year and October - December, last year.

### **What if I don't have sufficient wages in my base period to qualify monetarily?**

You may qualify under the alternate base period. Claimants not qualifying for benefits under the standard base period may do so under an alternate base period of the last four completed quarters. Claimants who did not earn sufficient wages during the first four of the last five completed calendar quarters may have earned the necessary amount during the alternate period. The minimum qualifying amount is the same for both periods. Claimants do not get to choose which base period they wish to use. The alternate is used only if you cannot qualify with the standard base period.

### **What if my wages are correct but insufficient to qualify under the alternate base period?**

If you worked only during the last six months or so, you may qualify monetarily after the quarter changes and should file another claim next April, July, October, or January as appropriate, if you are still unemployed.

### **What if my base period wages are incorrect?**

This may occur because an employer for whom you worked during the base period is omitted, some base period wages were omitted, or the wage amount is incorrect. It may also occur if an employer for whom you did not work is listed. You must request a redetermination through your VEC Workforce Center. If an employer or wages were omitted or incorrect, you must provide the name and address of the employer involved and some evidence of your earnings, such as W-

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2 or pay check stubs. Once your new wages have been validated, your weekly benefit amount will be adjusted to reflect the correct wages and you will be mailed a check to cover any amount due you for the weeks of benefits already paid.

### **May I use wages earned in other states to establish a claim?**

Yes. Wages earned in other states can be used to establish a claim in one of two ways:

1. You file a claim against the other state if you have earned enough wages in that state to qualify for benefits. This is called an Interstate Claim; or,
2. You request that the wages earned in other states be transferred to Virginia and “combined” with your Virginia wages to qualify for benefits.

Be sure to tell the Workforce Services Specialist if you worked in another state. Only those out-of-state wages that have not been used on a prior claim will transfer to Virginia. Wages earned overseas also may be used if you worked for a U.S. company. The state where the company is headquartered is the state to which the wages are reported.

### **If I qualify monetarily, is there anything that will prevent me from drawing the benefits?**

Yes. In addition to qualifying monetarily, you must also qualify based on your separation. If you are unemployed for any reason other than lack of work, it will be necessary to gather facts concerning your separation from employment and make a decision as to whether or not it qualifies you to receive benefits. If the decision is in your favor, you must also meet weekly eligibility requirements before you can receive benefits.

### **Can I get unemployment compensation if I quit my job?**

If you left your last job without being fired or laid off, and you did this without a good reason, you can't get unemployment compensation. You must prove you had a good reason for quitting. A good reason might be that the job was a risk to your health or safety, or work conditions were made extremely difficult by your employer. You also must prove you made all reasonable efforts to solve the problem and keep your job before you quit.

If you're asked to resign from your job instead of being fired, that is not a voluntary quit. The VEC should treat that as a discharge, and decide if you committed work-related misconduct.

### **Can I get unemployment compensation if I was fired?**

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If you are fired from your last job because of your misconduct in connection with your work, you can't get unemployment compensation. Your former employer must prove you were discharged for misconduct. Misconduct means you intentionally violated an employer's rule designed to protect your employer's interests, or you willfully disregarded the interests and duties you owed your employer. To prove these intentional acts, your employer usually must show you knew the employer's policies, you had been warned, you knew you risked losing your job, and you kept violating the policies. Your employer may have been justified in firing you, for example, because your job performance was unsatisfactory, but that doesn't necessarily disqualify you from getting unemployment compensation.

You can also be found ineligible for unemployment compensation if you were fired for losing or failing to renew a license or certification required for your job. This is considered to be misconduct, unless you can prove you had a good excuse.

### **How are these facts about my separation obtained?**

You give the reason for your separation when you file your claim. This information along with a questionnaire is sent to your former employer for completion. If your separation is other than a lack of work, it will be necessary for a Deputy (sometimes referred to as a Hearing Officer) to talk with you either in person or by telephone about your separation from work. Your employer may request to participate in the interview, or he may provide additional information in writing or by telephone. You have the right to review and comment on any information provided by your employer. The Deputy will decide whether you are or are not eligible to receive benefits. This decision will be contained in a "Notice of Deputy's Determination" which will be sent to you and your employer.

### **Can I receive unemployment benefits if I'm out of work due to illness or injury?**

Unemployment benefits are designed for people who are physically able to work, who are available for work, and who are actively seeking work. However, anyone may apply for benefits. If your circumstances restrict your ability to work or to seek work, there is a possibility you will be found not eligible.

## **The Steps in an Unemployment Compensation Case**

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There are four steps in an unemployment compensation case after you apply for benefits. These are the Deputy's Determination, a hearing before an Appeals Examiner, the Commission review before a Special Examiner, and an appeal to state Circuit Court. The VEC must give you a written decision at each of the first three steps. You can appeal a denial at each step. You must do this within 30 days of the date of the decision. You may be represented by anyone you choose at the first three steps, but you must have a lawyer to go to Circuit Court unless you plan to represent yourself, which would be very difficult and is not advisable.

## **What happens at the Deputy's Determination?**

Once you file a claim for benefits, your former employer files a report of separation. This tells why you no longer work for them. After that, a Deputy conducts a telephonic fact finding interview. This is with both you and your former employer. You can give your side of the story and respond to what your former employer said. Your former employer can give its side of the story and respond to what you said. The Deputy then issues a written decision within a few days.

- **If I disagree with the decision of a Deputy or "Notice of Deputy's Determination," how do I file an appeal?**

The Deputy's decision can be appealed within **30 days** from the date of mailing or delivery. This also applies to the employer should he/she lose. If no appeal is filed within **30 days** the determination becomes final. The appeal deadline is located on the back page of the decision.

You may file your appeal in person at your VEC Workforce Center, or by mail to the Virginia Employment Commission, Office of First Level Appeals, P.O. Box 1358, Richmond, VA 23218-1358. The appeal may also be filed by fax to (804) 786-8492 and by the Internet at [www.VaEmploy.com](http://www.VaEmploy.com). Be sure to include your Social Security number. You must be sure your appeal is received in the office or postmarked no later than the final date for appeal. Any change of address must be reported to the VEC immediately.

You must continue to make regular job searches and report to the VEC while your appeal is pending. If you don't, you run the risk of not getting benefits for the weeks you don't search or report, even if you eventually win your appeal. This is true for all levels of appeal: to the Appeals Examiner, to the Commission, and to Circuit Court.

## **What happens at the Appeals Examiner Hearing?**

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The party who loses the Deputy's Determination has 30 days to file a written appeal. This appeal is for a hearing before an Appeals Examiner. Unless you make a written request for an in-person hearing, your hearing before the Appeals Examiner will be by telephone. In general, it is better to have an in-person hearing rather than a telephone hearing. However, it almost always takes longer to get an in-person hearing scheduled than a telephonic hearing.

At the hearing, the Appeals Examiner will put into the record the documents that were before the Deputy. The Appeals Examiner questions the employer and its witnesses first. You or your attorney has a chance to question the employer and its witnesses. The Appeals Examiner then questions you and your witnesses. Your attorney also may ask questions. Your former employer has a chance to question you and your witnesses. Both parties get a chance to put other documents into the record. Both sides get to make a brief closing statement. The Appeals Examiner then issues a written decision in a week or two.

- **How do I make sure that I get called for my telephone hearing?**

When you receive the Notice of Telephonic Hearing before an Appeals Examiner in the mail, it will tell you to call the VEC in Richmond and give them the phone number where you may be reached on the day and time of your hearing. You **MUST** do this and you **MUST** be present at that date and time for the hearing.

- **If I disagree with the decision of the "Appeals Examiner," how do I file an appeal?**

The Appeals Examiner's decision can be appealed within **30 days** from the date the decision is mailed. This also applies to the employer should he/she lose. If no appeal is filed within **30 days** the determination becomes final. The appeal deadline is located on the first page of the decision.

## **What happens at the Special Examiner/Commission Level?**

The party who loses the Appeals Examiner's Decision has 30 days to file a written appeal. This appeal is a review before a Special Examiner. There is no new hearing, evidence or testimony before the Special Examiner, unless there is a very good reason. Instead, the Special Examiner reviews the testimony and the documents put into the record by the Appeals Examiner.

If you want a copy of the transcript and the documents before the Appeals Examiner, and if you want to present oral or written argument before the Special Examiner, you must make a written request for this within **14 days** of the Notice of Appeal that the VEC sends to the parties after the appeal is filed. If you do not ask for a chance to present argument, you will not be able to. After the argument and review of the record, the Special Examiner issues a written decision.

- **If I disagree with the decision of the "Special Examiner," how do I file an appeal?**

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If you are not successful at the Commission level, you will have 30 days to appeal to the Circuit Court. This also applies to the employer should he/she lose. The appeal deadline is located on the front page of the decision. Very few appeals to Circuit Court are successful.

### **What happens at Circuit Court?**

The party who loses the Special Examiner's Decision has 30 days to file an appeal in Circuit Court. There is no new hearing, evidence or testimony in Circuit Court. Instead, the court reviews the record to see if the decision is supported by evidence and is legally correct.

## **Additional Requirements to Qualify for Unemployment Benefits**

### **What do I have to do to meet the weekly eligibility requirements?**

Each week you claim benefits, you must be able to perform work, be available for work while placing no undue restrictions on your availability, and be actively seeking work. In addition, you must accept all offers of suitable work, be registered for work with a VEC Workforce Center, accept any VEC referrals to work, report to the VEC when directed to do so, and report your income from any source.

### **What does “actively seeking work” mean?**

“Actively seeking work” means that you personally visit several employers each week in your efforts to find work. You are required to provide the VEC, when requested, with information about each employer or company you visit while seeking work. These visits are called job contacts.

### **What if I’m working part-time? Am I still required to actively seek work?**

Yes. If you are working part-time and earn less than your weekly benefit amount, you are required to actively seek work and report your job contacts when filing your weekly claim for benefits. If you earn more than your weekly benefit amount, you are considered employed for unemployment insurance purposes and do not have to seek work with employers.

### **What about newspaper ads and telephone contacts?**

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Checking newspaper want ads and making telephone calls are not acceptable job contacts. Additionally, because the Virginia Unemployment Compensation Act requires that you provide the name of the employers you contact for work, blind ads are not accepted.

### **Are resumes acceptable job contacts?**

Yes, if that is the employer's requirement. You must report the name of the employer to which you submitted the resume.

### **If I am a member of a union, what are my work search requirements?**

If you are a member of a union that has a local hiring hall and solicits work on your behalf, you may be required to seek work only through the union hiring hall. You need to inform the Workforce Services Specialist of your union affiliation and its services when you file your claim.

### **What if I don't make job contacts during a week?**

If you do not make any or only one job contact during a week you wish to claim, you may be denied benefits for that week.

### **What if I have a lengthy period of unemployment?**

As the length of unemployment increases, you are expected to expand your methods of seeking work. You should be willing to include other occupations for which you are qualified as a result of prior training or experience.

### **Is anybody going to check or verify my job contacts?**

Yes. All job contacts are subject to verification. You are required to maintain a record of your work search that includes the date of contact, complete name, address and telephone number of the employer/company contacted, name of the individual with whom you spoke, type of work sought, and result of contact. The VEC conducts a quality assurance program that verifies job contacts and wages with employers. If your information concerning any job contact is false, you

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can be disqualified from receiving benefits for one year and thereafter if the falsely claimed benefits are not repaid in full.

### **What if the VEC Workforce Center refers me to a job?**

If you are referred to a job by the VEC Workforce Center, you must visit the employer to which you are referred. You may count the referral as one of your required job contacts for the week if you visit the employer to which you were referred.

### **What happens if I refuse a job offer or a VEC referral?**

If you refuse a job offer you will be contacted by the VEC to provide additional information. A Deputy will then determine if the work offered was suitable, or if you had good cause for refusing it. If the job was suitable and you did not have good cause for refusing it, you may be disqualified from receiving future benefits. If you fail, without good cause, to apply for suitable work when referred by the VEC or accept suitable work when offered, you may be disqualified starting with the first day of the week in which such refusal occurred. The Deputy decides whether a job offer or referral is for suitable work.

### **What is “suitable work?”**

Many factors are taken into consideration in determining whether work is suitable. These factors include your previous work experience, your physical and mental fitness, risk to your health, safety, or morals, and the distance from your home. You must report all job offers that you decline when you file your weekly claim for benefits.

### **How much can I earn and still receive benefits?**

You must report any gross wages, not net wages, during the week they are earned, not paid. If the gross, not net, wages you earned are less than your weekly benefit amount, you may receive unemployment benefits. However, the amount of gross wages that are over \$50.00 will be deducted from your weekly benefit amount. If your gross weekly wages are equal to or more than your weekly benefit amount, you will not be paid benefits for that week.

### **What if I receive severance pay, vacation pay, sickness and accident benefits, or holiday pay?**

Severance, vacation, holiday pay, and sickness and accident benefits that you receive may be deducted from your weekly benefit amount in the same manner as actual earnings in any week in which it is payable. You will be notified if these benefits or pay affect your claim.

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## **What if I receive a pension, retirement, social security, etc?**

Your benefits may be reduced by the weekly amount of a pension, retirement pay, annuity, or other similar periodic payments that you receive from your most recent employer of 30 days or 240 hours or more, or from any employer in the base period of your claim. Your weekly unemployment compensation benefits are *not* reduced because of Social Security and Railroad Retirement that you receive. You will be asked to provide the amount and source of any pension, retirement, or annuity when you file your claim. Failure to report changes in your pension or other such periodic payments, such as cost of living increases, when you file your weekly claim may result in an overpayment of benefits that you will be liable to repay.

## **What if I attend school or a training program?**

Be sure you report any classes you are taking during weeks claimed. You may receive benefits while attending school, depending upon the course of study and the required attendance each week. If you desire to attend school or a training program to improve your employment possibilities, you need to request approval in advance through your VEC Workforce Center. The VEC will determine if your training will be approved and advise you on work search requirements while you are in school or a training program.

## **What if I'm working but my hours have been reduced?**

You may be eligible for partial benefits. A partially unemployed person is one who, during a calendar week, was employed by a regular employer and had earnings that were less than his weekly benefit amount and who worked less than his normal customary full-time hours because of a lack of work.

## **Are partial benefits different than regular unemployment benefits?**

Yes. Your employer will be sent a notice that you have filed a claim for partial benefits and your weekly benefit amount. During any week you earn less than your weekly benefit amount because of a lack of work, your employer is required to give you a Statement of Partial Unemployment stating your wages for the week. In order to obtain your partial benefits, you must sign the form and return it to the VEC Workforce Center within 14 days of the date the employer gives it to you.

## **What if my employer won't give me the Statement of Partial Unemployment?**

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It is your responsibility to obtain the form from your employer. If you are a partially employed person during a week and your employer does not give you a Statement of Partial Unemployment, you must contact the VEC Workforce Center by Friday of that week.

### **Are the weekly eligibility requirements different for partial claimants?**

Yes. You must work all available hours. You must not miss work to report on your claim. If you do not work all hours offered to you, you may be ruled ineligible for benefits. You must report all earnings from your regular employer and from any other employers for whom you worked during each week claimed. You must report any offers of employment.

### **Am I required to actively seek work as a partial claimant?**

Generally, no because you are working for your regular employer. The Workforce Services Specialist will advise you of this requirement when you file your claim.

### **What if there is a question on my weekly eligibility?**

You will be notified to report or call the VEC Workforce Center for an interview. If you are ruled ineligible for benefits, you will receive a Notice of Deputy's Determination explaining why. If you disagree with the determination, you must file your appeal by the date shown on the notice. It is very important that you continue to actively seek work and file your weekly claims on time while the appeal is pending. Failure to do so may result in a denial of benefits.

### **What if I return to full-time work?**

Report your return to work when you file your weekly claim for the week in which you returned to work. Report the date you returned to work and, if you have already started work, report your earnings before deductions. Be sure to advise VEC of your earnings, even if your employer does not pay you right away, or you may receive benefits that you will have to repay. You may be eligible for reduced benefits the first week you return to work depending on how much you earn.

### **What if I make a false statement on my claim? What if I make a mistake?**

If you knowingly make a false statement or misrepresentation, or have knowingly failed to disclose a material fact, to obtain or increase benefits, you may be subject to a fine and/or

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imprisonment and be prevented from receiving future benefits for 52 weeks. In addition, you will be required to repay any benefits that you were not entitled to receive, plus a penalty of 15% of the amount you received but were not entitled to. Claims are periodically reviewed to make sure benefits have been properly paid. If you make a mistake when filing your weekly claim for benefits, call or report to the VEC as soon as possible.

### **Are my benefits taxable?**

Benefits are subject to federal income tax. At your request, VEC will withhold federal tax from your unemployment benefits. You will be mailed a statement, Form 1099-G, of benefits paid to you during the year. It is your responsibility to keep VEC informed of any changes in your address and to include unemployment benefits received on your annual tax return and pay the tax due. Benefits you received that are determined to be overpaid and are repaid may be deductible. Contact the Internal Revenue Service or your tax advisor.

### **Can my unemployment benefits be withheld because I received an overpayment of Food Stamps (SNAP)?**

Yes. When you apply for unemployment compensation, you must disclose whether you've had an overpayment of food stamps. If you do, VEC will notify the food stamp agency that you've applied for unemployment compensation, and VEC will withhold money from your benefits to pay the food stamp agency.

### **Can VEC withhold money from my unemployment benefits if I owe child support?**

Yes. When you apply for unemployment compensation, you must disclose whether you're under an obligation to pay child support through a child support enforcement agency. If so, VEC will communicate with that agency, and they will withhold the amount from your benefits to be paid over to that agency.

## **Overpayment of Unemployment Benefits**

### **What is an overpayment?**

An overpayment means unemployment insurance benefits paid to and received by you to which you were not entitled. This includes amounts paid while an appeal by your former employer is

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pending prior to a decision being rendered against you, and amounts paid because you did not notify the VEC of information which would have reduced or eliminated your benefit entitlement. You also are required to repay any benefits that are paid to you in error.

### **What happens if I incur an overpayment?**

If the claimant does not refund the overpayment, the Commission will deduct the overpayment from any future benefits or from any state tax refund owed to the claimant.

If the overpayment occurred due to an administrative error, the Commission has the authority to deduct up to fifty percent (50%) from any future benefits claimed until the overpayment has been satisfied, or to forego collection of the overpayment until the recipient has found a job, or to negotiate a repayment plan with the recipient. The Commission can pursue any other collection method if the recipient fails to enter into or comply with a repayment plan.

In addition, the overpayment may be collectible by civil action (court). Amounts collected in this manner may be subject to an interest charge from the date of the judgment and may be subject to fees and costs.

### **How do I repay an overpayment?**

Repayment must be made in full. If you are unable to repay the full amount in one payment, you must immediately contact the Benefit Payment Control Unit at (804) 786-8593 to arrange a repayment installment plan. Repayment of an overpayment may affect the amount of benefits on which you are required to pay taxes. Consult the Internal Revenue Service for further instructions.

### **What if I fail to repay the overpayment?**

If the overpayment is not repaid in full before you claim future benefits, a deduction (offset) will be made from these benefits. The VEC will also use other methods to collect the money owed, including collection agencies, credit bureaus, wage garnishment, attachment of bank accounts, seizing of income tax refunds, and levy and sale of personal property. The costs of collection, including administrative costs, attorney's fees, late penalty, and interest can be charged to you.

### **Can my unemployment benefits be withheld because of a Food Stamp overpayment?**

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Yes, an individual filing a new claim for unemployment must disclose if s/he has a Food Stamp overpayment. The Commission shall notify the state Food Stamp agency enforcing the obligation that the individual has been determined eligible for unemployment compensation.

The Commission shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overpayment. Any amount deducted and withheld shall be paid by the Commission to the appropriate state Food Stamp agency.

### **Can my unemployment benefits be withheld because of child support obligations?**

Yes, an individual filing a new claim for unemployment must disclose whether or not the individual owes child support obligations. The Commission shall notify the state or local child support enforcement agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.

The Commission shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations. Any amount deducted and withheld shall be paid by the Commission to the appropriate state child support agency.

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Free Legal information by Web and Phone: [www.vlas.org](http://www.vlas.org) and  
1-866-LegalAid (534-5243)

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