



NAVIGATING MICHIGAN'S UNEMPLOYMENT INSURANCE LAW

DISQUALIFICATIONS AND INELIGIBILITIES

MOST COMMON DISQUALIFICATIONS:

- VOLUNTARY LEAVING (QUIT)
- DISCHARGE (FIRED)
- REFUSAL OF WORK

DISQUALIFICATIONS AND INELIGIBILITIES

VOLUNTARY LEAVING (QUIT)

The claimant is disqualified for

Voluntarily leaving work

Without good cause attributable to
the employer

DISQUALIFICATIONS AND INELIGIBILITIES

VOLUNTARY LEAVING (QUIT)

The “burden of proof” is on the claimant to show either:

Leaving was involuntary, or

Leaving was voluntary, but with good cause attributable to the employer

DISQUALIFICATIONS AND INELIGIBILITIES

VOLUNTARY LEAVING (QUIT)

To show the leaving was “involuntary,” the claimant must show

- ✓ medical evidence that continued work would be injurious, **and**
- ✓ unsuccessful attempt to secure alternate work from employer, **and**
- ✓ unsuccessful attempt to secure leave of absence.

DISQUALIFICATIONS AND INELIGIBILITIES

VOLUNTARY LEAVING (QUIT)

Leaving was voluntary, but with good cause attributable to the employer.

Claimant must show attempt to correct legitimate problem by bringing it to employer's attention, and must show problem was not corrected after reasonable time.

DISQUALIFICATIONS AND INELIGIBILITIES

VOLUNTARY LEAVING (QUIT)

A claimant who is disqualified cannot begin or continue to receive benefits from any employer until the claimant earns 12 times his/her weekly unemployment benefit amount (that is, “reworks”). If the claimant satisfies the rework, the account of the employer involved in the quit will not be charged. Instead, the “Nonchargeable Benefits Account” is charged.

DISQUALIFICATIONS AND INELIGIBILITIES

DISCHARGE (FIRING)

The “burden of proof” is on the employer
to show

“Misconduct” and

Connection with the work

DISQUALIFICATIONS AND INELIGIBILITIES

DISCHARGE (FIRING)

A claimant who is disqualified cannot begin or continue to receive benefits from any employer until the claimant earns 17 times his/her weekly unemployment benefit amount (that is, “reworks”). If the claimant satisfies the rework, the account of the employer involved in the discharge will not be charged. Instead, the “Nonchargeable Benefits Account” is charged.

DISQUALIFICATIONS AND INELIGIBILITIES

"[Misconduct in an unemployment compensation case is] ... **conduct evincing such wilful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.** On the other hand, mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not to be deemed 'misconduct' within the meaning of the [unemployment compensation] statute."

DISQUALIFICATIONS AND INELIGIBILITIES

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DISQUALIFICATIONS AND INELIGIBILITIES

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DISQUALIFICATIONS AND INELIGIBILITIES

DISCHARGE (FIRING)

The discharge can be for a single, serious incident of misconduct (such as assault, theft, insubordination)

The discharge can be for a series of incidents, no one of which would be misconduct but which, in the aggregate, can be considered misconduct. But the **final incident** in the series must show some degree of wrongdoing by the claimant to sustain disqualification.

DISQUALIFICATIONS AND INELIGIBILITIES

REFUSAL OF WORK

The “burden of proof” is on the employer to show

Communication of offer of work

Suitability of offered work

Refusal of offered work

The “burden of proof” then shifts to the claimant to show “good cause” for refusal

DISQUALIFICATIONS AND INELIGIBILITIES

REFUSAL OF WORK

Distance from residence

Risk to health, safety, morals

Physical fitness

Length of unemployment

Wage differential

DISQUALIFICATIONS AND INELIGIBILITIES

REFUSAL OF WORK

Wage differential

- ✓ Until $\frac{1}{2}$ of benefits are paid:
 - ★ Prior experience and training
 - ★ 70% of prior wage
- ✓ Once $\frac{1}{2}$ of benefits are paid:
 - ★ Any job within capabilities
 - ★ Job that pays at least minimum wage, **and** average wage in area, **and** 120% of weekly benefit amount.

DISQUALIFICATIONS AND INELIGIBILITIES

REFUSAL OF WORK

If a claimant refuses an offer of suitable work, a disqualification can be imposed. If the claimant turns down hours of work they could have had, the issue will be “lost remuneration” and the pay for hours the claimant could have worked will be used to reduce unemployment benefits for the week just as if the hours had actually been worked and the wages paid.

DISQUALIFICATIONS AND INELIGIBILITIES

REFUSAL OF WORK

To requalify for benefits after refusing an offer of suitable work, the claimant must serve a 13-week period of requalification, and benefits will be reduced by 13 weeks (or the number of weeks remaining on the claim, if fewer than 13). Requalification can be served in a week with earnings, or by “certification” to benefit eligibility for the week.

DISQUALIFICATIONS AND INELIGIBILITIES

State of Michigan
Department of Licensing &
Regulatory Affairs

UNEMPLOYMENT INSURANCE AGENCY

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State of Michigan

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Department of Licensing &
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STEVE ARWOOD, Deputy Director
Department of Licensing &
Regulatory Affairs and

STEVE ARWOOD, Director
Unemployment Insurance
Agency

Information for Employers Who Offer Work that a Claimant Refuses

When an Employer Offers "Suitable Work," the Claimant Can Lose Unemployment Benefits if He/She Refuses It.

What is "suitable work?"

Before the claimant has received 50% of his/her benefits on an unemployment claim, the claimant must accept a job that pays at least 70% of his or her gross wage before becoming unemployed. In addition to wages, other factors considered in determining suitability of a job are:

- Degree of risk to the claimant's health, safety, and morals
- Claimant's physical fitness for the job
- Claimant's prior training and work experience
- Length of the claimant's unemployment
- Claimant's prospects for securing work in his/her customary occupation
- Distance of work from the claimant's residence (taking into account the claimant's age and health, time of day of travel, travel time and traffic conditions, and availability of a means of transportation).

After the claimant has received 50% of his/her benefits on a claim, the claimant must accept a job even if it is outside of his or her past training and experience, if it pays at least the state minimum hourly wage of \$7.40 an hour; if it pays at least the average wage in the locality for that kind of work; and if it pays at least 120% of the claimant's weekly unemployment benefit amount. The other factors in determining suitability, listed above, are also still taken into account.

What an Employer Should Do

The employer should communicate the offer of suitable work to a specific worker, with specific details about the job. Providing a "sign up" sheet for workers to use in responding to a generalized offer will not suffice.

If a worker refuses an offer of work, the employer should notify the UIA of the refusal (in writing to P.O. Box 169 Grand Rapids, MI 49501-0169 or Fax: 1-517-636-0427) and provide the following:

- A copy of the offer, including specifics on who offered it and how it was communicated to the claimant (e.g. verbal, written, posted, personally delivered).
- If applicable, how the work that was offered compares to work previously performed for the employer by the claimant
- Reason given by the claimant for refusing the work that was offered.

Sometimes a claimant will have "good cause" for refusing work and will not be "disqualified" for the refusal, but will be held "ineligible" indefinitely because the reason shows that the worker is unable to work or unavailable for work.

What Action will UIA take?

The UIA will use the employer's information to ask questions of the claimant about the offer, and about why he or she refused the work. If the claimant cannot show good cause for refusing an offer of suitable work, the UIA will suspend benefit payments for 13 weeks, and reduce the claimant's balance of weeks of benefits by 13 weeks (or the number of weeks remaining on the claim, if fewer than 13). Also, if the claimant explained to the employer or to the UIA that he/she turned down work because he/she did not wish to jeopardize or reduce his/her unemployment benefits, the UIA will adjudicate the issue of "lost earnings" and will consider earnings that were turned down as if they had actually been earned. The "lost earnings" will be used to reduce unemployment benefits for the week involved.

For further information about how employers can notify the UIA about a worker's refusal of an offer of suitable work, call UIA's Office of Employer Ombudsman (OEO), 1-855-484-2636

(1-855-4-UIA/OEO) or 313-456-2300, or email OEO@michigan.gov.

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accommodations are available upon request to
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LARA
LICENSING AND REGULATORY AFFAIRS
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Michigan Department of
Licensing & Regulatory Affairs
Unemployment Insurance Agency
Authority: UIA Director, Quantity: 1,000
Cost: \$14 (1.4¢/copy). Paid for with federal funds.

fact sheet

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State of Michigan
Department of Licensing and
Regulatory Affairs
**UNEMPLOYMENT
INSURANCE AGENCY**
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Stewart H. Harwood, Director
Department of Licensing and
Regulatory Affairs
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Department of Licensing and
Regulatory Affairs
Steve Amador, Director
Unemployment Insurance Agency

fact sheet

What is Suitable Work?

Michigan's unemployment insurance law requires individuals collecting unemployment benefits to seek full-time suitable work and accept an offer of suitable work. In deciding whether full-time or part-time work is "suitable," the law considers the following criteria:

- Prior earnings
- Length of unemployment
- Length and work experience
- Prior training and work experience
- Distance of the offered work to the worker's place of residence
- Distance of risk involved to the worker's safety and health
- The degree of risk involved to the worker's safety and health

During the first half of a worker's weeks of unemployment benefit payments, the worker is required to accept any suitable work offer if the pay is at least 70% of his or her last gross pay in addition to the above criteria.

After collecting half (50%) of the worker's entitled weeks, an unemployed worker must apply for, and accept work that is outside of his or her past training and experience if the pay is at least:

1. 120% of his or her weekly benefit amount in the locality where the work is offered; and
2. the average wage for the particular work (currently \$7.40 an hour).
3. the state minimum hourly wage (currently \$7.40 an hour).

The law says that if a worker refuses an offer of suitable work, without good cause, the worker may be disqualified from receiving unemployment benefits.

A job is unsuitable if it is vacant due to a labor dispute, if it pays less than the usual wage for that job in the area, or if a worker would be required to join, resign from, or refrain from joining, a union.

How Does the UIA Determine Average Wage Information?
State law requires the UIA to use an online database published by the state. The UIA uses a database published by the Department of Technology, Management, and Budget (DTMB) to determine average hourly and average annual wage information for a specified occupation or job title within a geographic area. This searchable Internet database is available to the public at: <http://miint.org/cgi/dataanalysis/AreaSelection.asp?tableName=Oeswage>

The following are some examples of refusal of suitable work situations:

Example 1: Suitable Work During the First Half of Benefits

An unemployed electrical engineer files for benefits after being laid off from a manufacturing company. She receives a determination entitling her to 20 weeks of benefits at a weekly benefit amount of \$362. The unemployed worker has a degree in engineering and is diligently seeking suitable, full-time work while collecting benefits. After collecting 8 weeks of unemployment benefits, she is offered a full-time job as an engineer near her place of residence with a work commute of 10 miles. The pay offered is at a gross wage of \$42,000 per year. Her gross wage at her last employer was \$60,000 per year.

Is this Considered Suitable Work?

The work offer is consistent with her past training and work experience and is near her home. The pay offer is at least 70% of her last gross wage (\$60,000 x .70 = \$42,000). Unless one of the other criteria prevents this job from being suitable, such as a risk to her health or safety, the work offered is suitable.

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Example 2: Suitable Work After Collecting Half of Benefits

An unemployed medical assistant files for unemployment benefits in March of 2012 after being laid off from a local hospital. He receives a determination entitling him to 20 weeks of benefits at a weekly benefit amount of \$324. He has previous training in the medical field and is certified as a medical assistant with prior work experience as a waiter. After collecting 14 weeks of unemployment benefits, he is offered a part-time job working 25 hours per week as a word processor at an insurance company near his home in Detroit. The offered wage is \$16 per hour.

Is this Considered Suitable Work?

Since he collected half of his benefits, he must accept any work offer, regardless of his prior work experience and training as a medical assistant, if the work pays a gross amount of at least 120% of his weekly benefit amount, is the average wage in the locality of the type of work offered, and is at least the state minimum hourly wage (currently \$7.40 an hour). In this example, the hourly pay offer exceeds the state minimum hourly wage and the gross pay is greater than 120% of his weekly benefit amount. See below for calculations.

- **Gross Wages Per Week Offered** = 25 hours of work x \$16 per hour = \$400 per week
- **Weekly Benefit Amount (WBA)** = \$324
- **120% of WBA** = \$324 x 1.20 = \$388.80 rounded down to \$388.
- \$400 gross earnings offered per week is greater than \$388, which is 120% of his WBA

However, to be suitable work, the pay offer must also be the average wage for the type of work in the location where the work is offered. In this example, the unemployed individual was offered work as a word processor in Detroit. Using the DTMB online database explained earlier, the most recent average hourly wage for a word processor in the Detroit Metropolitan Statistical Area is \$17.60. Since the pay offer is less than the average hourly wage in the locality, the work offer would be unsuitable and he may continue to collect benefits if it is determined that he is not disqualified.

Protesting or Appealing a Disqualification Decision: If you have received a determination disqualifying you from benefits due to your refusal of suitable work, you may protest or appeal the (re)determination within 30 days of the mail date on the (re)determination. During an appeal hearing, the employer must prove that a specific offer of work was made to you and that it was suitable. On the other hand, you will have to prove that the offer was not received, or you may have to show why the work was unsuitable, or you may have to explain that you had good cause for refusing the work.



LARA is an equal opportunity employer/program. Auxiliary aids, services, and other reasonable accommodations are available upon request to individuals with disabilities.

Michigan Department of Licensing and Regulatory Affairs
Unemployment Insurance Agency
Authority: UIA Director, Chapter 1,000
Code 514 (1-6-09)99. Paid for with Federal Funds.

DISQUALIFICATIONS AND INELIGIBILITIES

WEEKLY ELIGIBILITY:

- ✓ Be able to work
- ✓ Be available for full-time, suitable work (must keep UIA and employer informed of contact information)
- ✓ Seek work (must file monthly report of work search results)
- ✓ Register for work with MW!A
- ✓ Report to MARVIN on appointment.

DISQUALIFICATIONS AND INELIGIBILITIES

DENIAL PERIOD FOR SEASONAL EMPLOYERS:

An employer that employs one or more workers hired to work regularly recurring periods of 26 weeks or less within a 26-week period can be designated as a “seasonal employer.” If “reasonable assurance” is given of re-employment for the next season, unemployment benefits will be denied to the employee between seasons, to the extent the benefits are chargeable to the seasonal employer.

DISQUALIFICATIONS AND INELIGIBILITIES

DENIAL PERIOD FOR SEASONAL EMPLOYERS:

In addition to a “seasonal employer,” the denial period can also apply to a school, or to a 3rd party contractor for a school, or to an employer of a professional athlete.