

Employer Mistakes and Misinformation

Unemployment Compensation during COVID-19

My employer says I am required to use all my PTO before I can file for unemployment.

False. There is nothing in the law that requires you to exhaust PTO (paid time off) before you file for unemployment. It is a personal, financial decision you will need to make. You may receive more money from your PTO than your unemployment benefit payment. Also, there is likely to be a slight delay in obtaining your unemployment benefits, so your PTO can help you bridge that gap.

If you do elect to receive PTO, you must report it as earnings when you file your biweekly claim. It will offset (reduce) the amount of benefits you receive for that week, but you have not “lost” the money in your account. It will be available to you when you continue to file. In other words, it will delay your receipt of UC (unemployment compensation) but not reduce the benefits that are available to you.

My employer claims they are “paying” me for some of this time, but it is in the form of a loan. They said I will need to pay the loan back through future paychecks. Am I eligible for UC and do I have to report that as income to UC?

You are eligible for benefits, and you do not need to report those payments. When filing bi-weekly claims, you are required to report wages to unemployment when they are earned, rather than when they are paid. Money loaned from employers has not been earned and need not be reported if you are required to pay that money back by working in the future. But also note, your employer is not permitted to withhold that money from your paycheck in the future unless you authorize such a deduction in writing.

My employer told me that I am required to take additional PTO now and "earn" it later. Do I need to report that PTO as income to UC and will it affect my benefits?

No. For the same reason as above, these payments have not yet been earned because you will need to work off the deficit in the future.

My employer says that I am still employed, but my hours are reduced to "zero," and therefore I am not eligible for unemployment.

No. Unemployment benefits are available for workers whose hours have been reduced. If your hours have been reduced to zero, that is effectively a complete "lack of work" situation. You should select "lack of work" when you file. Even if your hours were reduced to part-time, you may be eligible for UC. When applying for benefits, just remember to select "lack of work" and indicate the current amount of earnings you have per week.

My employer is still requiring me to attend work but has said I can elect to take a Leave of Absence and they will not fight my unemployment. Will I definitely get UC if they aren't fighting it?

No, but you should still be eligible. When employers encourage people to quit or take a leave of absence, they often try to incentivize that option by saying they will not fight your unemployment benefits. Your employer has said they will not "fight" the claim - but when you voluntarily leave work, such as taking a leave of absence, the burden is on you to show you had good cause to leave, regardless of whether your employer provides information to UC. However, during this public health crisis, you should be able to establish good cause if you cannot continue attending work for a reason related to COVID-19 and its effects. Just make sure you have informed your employer of the issue. We recommend doing it in writing.

My workplace is closed, but my employer said I could take a Leave of Absence and keep my health insurance or get laid off and take COBRA. What should I do?

Take a “Leave of Absence” and apply for UC. If your workplace is closed, you should be eligible for unemployment benefits even if your employer’s records indicate you are on a leave of absence. So you may as well keep your health insurance and take the leave of absence.

I recently quit my job to start a new one, but now my new job has postponed or cancelled my start date. They told me I am therefore not yet their “employee” and cannot get UC benefits.

False. You will be eligible for UC if you had a firm offer of employment from the new employer. A “firm offer” is a job offer that specifies the conditions of employment, such as wages, hours, duties, and starting date. If you quit your previous job to accept employment and the firm offer is cancelled or the starting date is pushed back, you should be eligible for UC. When you apply for benefits, you should report your last job as your separating employer and state that you quit because you were seeking work and had a firm offer. Save proof of that firm offer, if you have it.

I was laid off from my job, but my employer said I would not be eligible for UC because they are going to give me severance pay.

False. If you’ve been laid off from work, you will be eligible for UC. Pennsylvania does have a severance pay reduction, but it does not affect your benefits if your severance is less than \$20,700. You still need to report the severance, but you will receive your benefits.