

SECTION 1: THE PROCESS OF CLAIMING UNEMPLOYMENT BENEFITS

The procedures to apply for UI benefits are simple. It's important to apply for unemployment benefits through the UIA (either online, by phone, or in person) as soon as possible after being unemployed. You will not receive any benefits for weeks that pass before you apply. Once you have applied, you must contact UIA once every two weeks through the system called "MARVIN" (Michigan's Automated Response Voice Interactive Network) to claim your continued eligibility.

After you apply, the UIA will approve or deny your application. Some people get their claim approved without any problem and begin collecting benefits. Others have to vigorously prove and defend their right to receive the benefits when their claim is contested by a former employer. If your former employer contests your claim, there are several levels of review where you might have to prove and defend your right to the benefits.

If your claim is denied and you appeal the denial, you need to keep recertifying through MARVIN. Any period for which you do not contact MARVIN may not be compensated.

A. APPLYING FOR BENEFITS: A TWO-STEP PROCESS

Step 1 – Register for Work with Michigan Works! and Michigan Talent Bank

Under the state UI system, unemployment benefits are reserved for people who are "available for work." This means that in order to qualify for benefits, you must be able to show that you want to work and would take a job if it were offered. The state has a network of offices called "Michigan Works!" that helps Michigan residents find work.

Before you can submit a claim for unemployment benefits, you must visit a Michigan Works! site **in person** to "register for work" in their system. There are over 100 Michigan Works! Service Centers throughout the state. To locate the center closest to you, call 1-800-285-WORKS (9675) or visit <http://michiganworks.org/agencies/map/>.

When you arrive at a Michigan Works! Service Center, you will need to show two important documents: a photo ID that is accepted by the state (driver's license, state ID, green card, etc.), and an official document that shows both your social security number and your name. A Social Security card is best, but if you don't have your Social Security card, bring an employment or tax document that shows your full name and full social security number.

Once the Michigan Works! staff have verified your identity, they will help you register with the Michigan Talent Bank (MTB), an online resume/job seeking system that is affiliated with Michigan Works!. Michigan Works! representatives will assist you in filing a resume with the MTB. If you already have a printed resume, you can bring it with you. If you don't have a resume, don't worry – the staff will help you put one together through the MTB online system.

Note: You can create your resume on MTB from any computer and that will help things go faster when you visit, but you still need to visit a Michigan Works! Center to officially register.

The Michigan Works! staff will give you an official UIA form titled Notice to Register for Work, and will stamp it to indicate that you are in the system. They will also report your social security number and full name to the UIA. It will take at least three business days

Avoiding Snags in Registration

- Your first and last names have to be entered identically at the UIA and Michigan Works! office. For example, some people use different spellings at different times or add a hyphen to their names—or use a middle name as a first name or vice versa. Any of these differences could delay your benefits. Make sure you use the exact name and spelling that are associated with your social security number.
- Remember to keep the stamped "Notice to Register for Work" that the Michigan Works! staff gives you. An electronic system maintains worker records, but in case the system does not record your information properly, you should keep the paper notice. If you need to provide proof of the date that you registered for work, this form will be very important.

for your name and social security to be processed by the system, after which you can initiate your UI benefits claim (see Step 2 below).

Step 2 – Apply for Benefits through the UIA

Once you have registered for work at a Michigan Works! Center, you need to apply for benefits from the UIA.

Here is what you need to file a claim for UI benefits: your Social Security Number, your Driver's License or State Identification or your MARVIN PIN (if you have one); along with the names and addresses of employers where you have worked during the past 18 months and the last date of employment with each employer. If you are not a U.S. citizen or national, you will need your Alien Registration Number and the expiration date of your work authorization. It will be helpful if you can provide documentation of your quarterly gross earnings, such as pay stubs, but if you don't have that paperwork you can still apply.

You can apply for benefits in one of three ways: internet, phone, or in-person. Choose one of the following:

- Apply online at the Michigan UIA's website (follow the links at www.michigan.gov/uia or go directly to <http://goo.gl/x9mWC>). If you do not have internet access at home, you can use public computers provided at Michigan Works! Service Centers, UIA Service Centers, or your local public library.
- Call in your application at **1-866-500-0017**. The scheduled time for filing by phone is based on the last two digits of your Social Security number.

Call-In Schedule:

	Monday	Tuesday	Wednesday	Thursday & Friday
8:00 am – 12 noon	00-15	34-48	67-81	OPEN CALL-IN
12:30 pm - 4:30 pm	16-33	49-66	82-99	

For example, if your Social Security number ends in 50, you would call on Tuesday afternoon. Workers who are unable to call on their appointed day and time can dial the toll-free number anytime between 8:00 a.m. and 4:30 p.m. Eastern time on Thursday or Friday of the same week.

- Apply in person by visiting a local UIA office. The inside back cover of this handbook provides a list of UIA offices. *Note: If you have trouble communicating in English, staff at the offices can arrange for an interpreter to help.*

Within ten days of your application, you should receive notification from the UIA that your claim for benefits has been approved or denied. This notice is called a "Determination," and is described in greater detail below.

Step 3 – Recertify Your Eligibility Regularly Through MARVIN

If you have been approved for benefits, or if you are appealing a denial, **you must maintain your claim as active** for each new two-week period by updating it on MARVIN. Instructions on how to use MARVIN are available through resources listed on the inside back cover of this handbook.

You should use the telephone system the first time you certify through MARVIN, but after that you can use the online system. The last two digits of your Social Security number determine your designated day and time slot for contacting MARVIN, but if you miss your slot you can do it on Thursday or Friday.

Remember: If you don't claim benefits through MARVIN every two weeks, you may not be compensated for the period you missed. Even while appealing a denial YOU MUST REPORT THROUGH MARVIN.

B. THE DETERMINATION

A UIA representative will review the forms that you submit with your claim. Your former employer will also file forms about your employment. Based on all of this information, the UIA representative then makes an official "Determination" stating whether you are eligible to receive benefits. If you have worked for more than one employer

during the 18 months before filing a claim, the UIA also determines which employer(s) are liable for the payments.

The official Determination is usually issued within 10 days after your application for benefits. It will state one of two things: either 1) you qualified to receive benefits or 2) you did not qualify to receive benefits. The UIA will send a notice of the Determination to you and the employer. This notice may summarize the facts of your case, list legal standards applied, and reasons for the Determination. If benefits have been approved, the form states the weekly benefit and the number of weeks that benefits will be paid.

If benefits are not approved, the notice states why you were disqualified. The reason may be “**monetary**,” which means you did not reach the cumulative threshold of wages earned in order to be eligible for benefits. Other reasons for disqualification are noted in Sections 3-6 of this book. Those sections also give examples of workers who successfully challenged disqualification, plus suggestions for how to present your case to challenge the denial of benefits.

C. REQUESTING A REDETERMINATION (Protesting the Determination)

Either the unemployed worker or the employer may protest the Determination by requesting a Redetermination. A protest must be in **writing**, and must be **signed**. It also has to be received by the UIA within 30 days after the Determination is issued.

When a protest is submitted on time, your case is reviewed again. Generally, at the Redetermination stage, a different UIA representative will review your case. This representative may ask you or your employer for additional information, and will then issue a Redetermination. The Redetermination notice will look similar to your Determination notice. The Redetermination will either affirm, modify, or reverse the initial Determination.

Appeals Can Make A Difference

You should always consider appealing an unfavorable Determination or Redetermination. Persistence can pay off since you may be able to persuade the next level UIA decision maker that you are entitled to benefits.

D. FORMAL HEARING (Appealing the Redetermination)

After receiving the Redetermination notice, either the unemployed worker or the employer can appeal the decision. As before, the appeal must be **written, signed, and received** by the UIA **within 30 days** of the date that the Redetermination was issued. If the appeal is received on time, a hearing will be scheduled. The State Office of Administrative Hearings and Rules (SOAHR) mails the Notice of Hearing at least 10 days before the hearing date. This Notice of Hearing states the time and place for the hearing (usually a regional hearing location), or it will state that the hearing will be conducted over the phone on a certain date and time. You must attend and be ready to present your claim at this hearing.

The hearing will be held before an Administrative Law Judge (ALJ). The ALJ is employed by the SOAHR. At this hearing, the information contained in the UIA’s file carries less weight, so both parties should come prepared to present their case and to answer questions from the opposing party and the ALJ.

Sections 7 and 8 of this handbook provide specific advice on procedures and strategies at a hearing.

In many cases, workers can obtain no-cost help from a trained advocate to prepare for and present their claim at a hearing. **Refer to Section 7B of this handbook for information on obtaining an advocate’s assistance.**

At the hearing, the ALJ reviews documents, listens to both parties’ testimony, and decides whether to confirm or reverse the Redetermination. The ALJ may also question the parties and witnesses. Following this hearing, the ALJ issues a decision. If the ALJ rules against you, consider doing the following:

1. Request a rehearing. Rehearings are only granted in limited circumstances. This option is best when you obtain new evidence that was unavailable to you at the time of the hearing.
2. Appeal the ALJ’s decision to the Michigan Employment Security Board of Review. This is a separate agency from the UIA or the SOAHR.

E. BOARD OF REVIEW

To be filed on time, a written appeal must be received by the Board of Review at 611 West Ottawa Street, P.O. Box

30475, Lansing, MI 48909-7975 within 30 calendar days after the mailing date on the ALJ's decision.

The Board of Review consists of five members appointed by the governor. These members review the transcripts and evidence presented at your ALJ hearing and then makes a decision based only on this "record" of the claim.

After receiving your appeal request, the Board of Review will mail you a copy of the transcript from the ALJ hearing along with further guidelines to follow if you would like to request an oral argument, which are rarely granted, or submit a written argument.

Neither of these options is required and the Board will review the record regardless of whether you request oral argument or submit a written argument. It may benefit you to submit a written argument, but you only have **20 days from the date the Board mailed the transcripts** in which to submit your written argument. Also, you can only submit a written argument if both parties are represented by attorneys or agents or when there is **written consent**, signed by both parties, to submit a written argument. This means you would need a signed statement from the employer or its representative agreeing to submission of written arguments.

If you do prepare a written argument, it should tell your side of the story by referring to testimony and evidence presented in the transcript and mentioning the applicable legal standard. Although the Board of Review is free to make findings of fact different than those made by the ALJ, these findings are limited to what was presented at the ALJ hearing. Thus, you most likely will not be able to present any new evidence to the Board of Review unless, for extraordinary reasons, this new evidence could not have been known or discovered in time for use at the ALJ hearing.

Although the state's advocacy program does not provide assistance at the Board of Review level, you may be able to get help at this stage from one of the other resources listed in Section 7B of this handbook.

F. CIRCUIT COURT AND BEYOND

After receiving a decision from the Board of Review, the losing party may file an appeal to the Circuit Court of the county in which the claimant resides or the Circuit Court of the county in which the claimant's place of employment was located. Application for the appeal must be made **within 30 days after the mailing date of the Board of Review's decision** and the appealing party must include proof that all interested parties and the Board of Review were served with the circuit court claim of appeal. Look to Michigan Court Rules 7.104(B) and 7.101(I) for further information on circuit court appeals and briefs (rules online at <http://coa.courts.mi.gov/rules/documents/1chapter7appellaterules.pdf> or <http://goo.gl/MFYcj>).

Even after the Circuit Court makes its decision, parties have both the **Michigan Court of Appeals and the Michigan Supreme Court** as their further options. If you are considering appealing to these courts, you should contact the resources listed in Section 7D and remember that when either party chooses to exercise the appeal rights mentioned above, the **standards of review** are different at each level.

Although the state's advocacy program does not provide assistance at these levels, you may be able to get help from one of the other resources listed in Section 7B of this handbook.

G. STANDARDS OF REVIEW

During each of the stages listed above, it is important to consider the standard of review used at each level. The standard of review is the test that judges and other decision makers use to decide whether they can overturn the decision that occurred at the previous level. Think of it as "how high of a bar you have to jump over" to win your case. During these appeals, even if the employer does not give any arguments at all, you may still need to show evidence or show that there was a certain type of error or big enough mistake in the case to meet the applicable standard of review.

Your first hearing before an Administrative Law Judge is all the more important because the standards of review are higher at each level of appeal. Furthermore, you most likely will not have a chance to present additional evidence during further appeals.

ALJ Hearing: The ALJ will consider the **burden of proof** (see Sections 3-6 to learn what burdens of proof apply to what issues) and the applicable legal test for the issues involved (voluntary leaving, misconduct, etc). Even if your employer does not show up to the hearing, you will likely still have to give testimony on the record so the judge can make a decision based on

facts that were presented. The judge is not bound by the Redetermination that the Agency made before it was appealed and will hear the facts fresh, as if the claim was being decided for the first time. This is called a “de novo” standard of review.

Board of Review: The Board is generally limited to examining only the facts that were presented at the ALJ hearing. They are, however, free to make factual determinations different from those made by the ALJ. The standard of review does not require the Board to give deference to the ALJ’s decision.

Circuit Court: Here you will have to show that the decision below (usually by the Board of Review) was “not authorized by law and not supported by competent, material, and substantial evidence.” Substantial evidence is defined as “evidence which a reasoning mind would accept as sufficient to support a conclusion.”

This means that even if the Circuit Court judge would have ruled differently than the Board of Review, he or she cannot substitute their own judgment for the Board’s. The Circuit Court judge can only overturn the Board if the record indicates that the Board’s decision wasn’t authorized by law and was not supported by the evidence.

Michigan Court of Appeals: At this level the standard requires that the decision below was “clearly erroneous” – that is, “on review of the whole record, the Court is left with the definite and firm conviction that a mistake has been made.” This is an even higher standard of review than at Circuit Court.

The **Michigan Supreme Court** can choose whether or not to hear your appeal. Consult with the resources listed in Section 7B for further information.

H. TIMELINESS OF APPEALS AND “GOOD CAUSE”

For a protest or appeal to be filed on time, the written and signed copies must be received by the relevant agency by the end of the **30th day from the date of the decision** that you are protesting or appealing. Just having the right date on the postmark—or even a date a few days ahead—is not enough to be sure your protest is timely. The protest or appeal must be **received** by the 30th day.

If the protest or appeal is timely, the decision will be reviewed and a new decision will affirm, modify, or reverse the prior decision on your claim.

If the protest or appeal is not received by the required date you will receive notice that it is considered “untimely.” Your claim will only be considered further if you show “**good cause**” for the untimeliness of your request.

Just being forgetful or negligent is not enough to show good cause. Examples of “good cause” include

- serious personal illness;
- a lack of written notice or other clerical errors by the UIA;
- evidence of untimely postal service;
- being out of town to look for work;
- death or serious illness of a family member; or
- other occurrences that *imply a situation out of your direct control*.

If you believe that you have good cause for filing an untimely protest or appeal, you should file a request to reopen the claim for “good cause” as soon as possible. This request to reopen the claim will not be granted if more than one year has passed from the date the decision was mailed. Even if you apply before one year has passed, you will need to show that events you cite in support of a finding of “good cause” existed up until you submitted the new request. So take action as soon as you realize you missed the deadline.

If you are late in filing a request for a Redetermination, you should include the “good cause” reason in the request for Redetermination. If you missed a hearing due to a reason you believe is good cause, you should request a rehearing and include in your request the good cause for missing the hearing. If your request was for a hearing, the lateness of your request will be the first issue that will be addressed in your hearing—and you will have to show “good cause” for untimeliness before the ALJ will consider the other issues on your claim. The judge will hear the facts as to why you are late and hold you to the standard of conduct of “the average reasonable claimant in light of all the circumstances.”

If “good cause” is NOT found, the “untimely” protest or appeal will be denied. If good cause is found, the judge will proceed to examining the disqualification issue(s). A denial for an “untimely” protest can be appealed up to the next level in the same way as any other denial.