To be eligible for any unemployment insurance (UI) benefits, you will have to prove to the Employment Development Department (EDD), the agency that handles UI, that you meet the “past earnings requirement.” This requirement, which is based on the income you earned during the 18-month period before you apply for benefits, is described in detail in this Fact Sheet.

This Fact Sheet also discusses how EDD decides your “weekly benefit amount,” which is the size of your weekly unemployment check.

1.

What is the "past earnings requirement" and how do I prove that I meet it?

To collect UI benefits, you have to show one of the following at the time you file your claim:

- You earned at least $1300 in employment during at least one quarter of the “Base Period” (described below); or
- You earned at least $900 in employment during at least one quarter of the “Base Period” (described below) *and* the total amount you earned in the entire Base Period is at least 1.25 times the amount you earned in the highest earning quarter.

The EDD keeps records of your past employment earnings based on the amount of wages reported by your past employers. If you do not have enough wages in your past to meet either of the conditions described above, you will be unable to file a valid claim for UI (but only until you do meet one of the conditions).

2.

What is the "Base Period" and what impact does it have on my benefits?

The Base Period is a specific 12-month period beginning about 15–17 months before the date on which you file your UI claim. To determine the Base Period for a claim, use the following table:

If you filed your claim in:	...the Base Period is the 12-month period ending the previous:
January, February, March	September 30
April, May, June	December 31
July, August, September	March 31
October, November, December	June 30

For example, if you filed your claim on September 15th of this year, 2006, your Base Period would be April 1st of the previous year through March 31st of this year.

The EDD looks at the three-month period (a “quarter” of a year) in your Base Period in which you were paid the greatest amount of total wages; this is known as your “highest earning quarter.” The EDD then uses that quarter to determine both your eligibility and the amount of money you may receive in UI benefits if you are eligible. The EDD will send you a document called a “Notice of Unemployment Insurance Award” shortly after you first contact them to file a claim. This notice shows how much the EDD believes you earned in each quarter of your Base Period. The Notice of Unemployment Insurance Award will also indicate the amount you will receive in weekly benefits if the EDD decides you are otherwise eligible.

3.

Will my eligibility change if I wait to file my claim for benefits?

Yes. The definition of the Base Period shifts each “fiscal quarter” of the calendar year. The “fiscal quarters” in each year are the three-month periods that begin in January, April, July, and October. Even if you do not meet the Base Period earnings requirement now, you may meet it next quarter if you decide to wait to file your claim. Even if you do meet the minimum earnings requirement in the current definition of the Base Period, if your base period earnings were significantly higher in a “gap quarter” (the three month period between the end of your base period and the date you file your claim), you may decide to wait and file your claim to increase the amount you receive each week (although waiting will delay your first payment of UI benefits).

4.

Does it matter how much I made at my last job?

Sometimes. The income you earned at your last job (the one you had right before applying for benefits) will only be included in your Base Period if you held that job during one of your four Base Period quarters (described above). If you file your claim immediately after losing a job and you only held that job for a short time (e.g., 1-2 months), the income from this job will not be included in your Base Period and will not affect your eligibility for UI benefits. If you wait to file your claim, your Base Period may change and the income from that job might affect your eligibility, even if the job only lasted for a short time.

NOTE: Even if your income from this job does not affect your UI benefits, you will only be eligible for UI benefits if it was not your fault that you lost this job (See our Fact Sheets Unemployment Insurance: Eligibility After Quitting a Job and Unemployment Insurance: Eligibility After Being Fired from a Job, for more information).

5.

How much unemployment insurance will I collect?

The amount of UI you can collect each week is called your "weekly benefit amount." The size of your weekly benefit amount depends on your reported earnings from the Base Period (described above). The higher your Base Period earnings, the higher your weekly benefit amount. For example, if you earned $5000 during the highest earning quarter of your Base Period, your weekly benefit amount would be $193 per week. If you earned only $4000 during the highest earning quarter of your Base Period, your weekly benefit amount would be $154 per week. (NOTE: These numbers are for claims filed on or after January 2, 2005.)

The minimum weekly benefit amount is currently $40 per week and applies to workers who earned less than $949 during the highest earning quarter of the Base Period. The maximum weekly benefit amount is currently $450 per week and applies to workers who earned more than $11,674 during the highest earning quarter of the Base Period.

The maximum total amount you can receive on your unemployment insurance claim is 26 weeks of benefits during your benefit year (a 52-week period beginning when you first apply for benefits). You do not have to collect all of your benefits in consecutive weeks (you can close and then reopen a claim), but the total amount you can receive is "capped" at 26 weeks. You can also collect only a partial week of benefits (usually if you report some earnings while collecting unemployment or if you are unable to work for part of a particular week). There are only two ways of extending UI benefits beyond the 26-week maximum. One is by Federal or State government order (usually only in times of overall economic emergency) and the other is by participation in the California Training Benefits (CTB) program, which must be approved by EDD. You must apply for the CTB extension by calling EDD *before* you receive your 16th week of benefits. EDD will then determine if you are eligible for this program.

6.

Can I increase my Weekly Benefit Amount?

Normally no. The weekly benefit amount is set at the beginning of each claim for UI and it is based on the amount of earnings in the Base Period. This amount will not increase at any time during the claim, unless the EDD discovers wages were missing from the Base Period. If the EDD increases the amount of wages in the Base Period, it will also increase the weekly benefit amount accordingly.

7.

What if I believe wages are missing from the calculation of my Base Period earnings?

There are three main reasons that wages may not have been included in the EDD's calculation of your Base Period earnings. Those three reasons are described below. If you believe there are wages missing from the calculation of your Base Period earnings for any of the reasons listed above, you should contact the EDD and request a "recomputation." After you request a recomputation, the EDD will send you a written notice indicating whether or not they have found any errors in the original calculation. If you still disagree with the EDD's calculation of your Base Period earnings, you have right to file an appeal. For more information about the appeal process, see our Fact Sheet Unemployment Insurance Benefits: An Overview

1) The wages may have been earned in non-covered services or excluded employment.

There are certain types of work that are not credited toward collecting unemployment insurance. That kind of work is called “non-covered” or “excluded” work. Although most forms of regular employment *do not* fall into this category, the following is a list of the most common types of non-covered services or excluded employment:

- independent contractor work (*see below);
- certain religious work;
- election campaign work;
- casual or family work;
- certain public entity work;
- certain federal work;
- student hospital work;
- student work;
- “experience” work;
- service for another state;
- students employed by camps;
- certain domestic work;
- certain direct sales work;
- golf caddy work;
- certain nonprofit work.

*Note about “independent contractor work”: Some employers wrongly mislabel their employees as independent contractors to avoid having to pay taxes to the EDD and other government agencies. Other employers simply misunderstand the legal difference between an employee and an independent contractor. For more information about whether the type of work you have been performing should be considered “employment,” or “independent contractor work” by the EDD, see our Fact Sheet titled Independent Contractor or Employee? How You Should Be Classified.

2) The employer may have failed to report your earnings correctly and failed to pay taxes to the EDD.

Employers may misreport wages because of simple clerical errors or, as with “independent contractor” classifications (see above), in an illegal attempt to reduce the amount of payroll taxes owed to the EDD. Whatever the source of the error, if you have independent proof of wages earned during your employment, you should be able to resolve the problem fairly easily. There are a number of ways to prove wages earned, including: timesheets, pay stubs, tax records, bank statements, personal calendars, work schedules, etc. If you believe an employer has misreported your wages, request a “recomputation” by the EDD and submit copies of proof of wages earned. (Note: do not submit originals because you may need those for an appeal if the EDD continues to make a mistake.)

3) The EDD may have made a record keeping error.

The EDD manages an enormous number of claims for UI each year through a complicated tax collecting and record keeping system. The system identifies individual employers by “reserve account numbers” and employees by Social Security numbers. EDD errors are often caused by mistakes in one of these two numbers. If you believe there is an error in the calculation of your Base Period wages, be sure to check the documents you receive from the EDD for your correct Social Security number and the proper names of your past employers.

8.

What if I earned additional wages "under the table" without having the wages reported?

Any work performed but not reported to the EDD or the Internal Revenue Service (IRS) or California Franchise Tax Board (FTB) will not be counted in your Base Period Earnings. If you want those wages counted into your Base Period earnings, you will need to contact the FTB, the IRS *and* the EDD Tax Office to explain why the wage credits were previously missing. Reporting those wages may cause you to be liable for the payment of income taxes and penalties to the IRS or FTB.

9.

What if I earned additional wages from self-employment?

Any work performed in self-employment will not be counted into Base Period earnings unless you have previously established an account with the EDD for “elective coverage.” For more information on establishing an account for “elective coverage,” contact the EDD directly.

10.

What if I earned wages from work in another state?

If you performed some but not all of your Base Period work in another state, the EDD should have records of the wages you earned already included in the calculation of your Base Period wages. If any wages are missing, follow the steps described above in Section 7 to request a "recomputation." If you performed all of your Base period work in another state, you will need to file an "interstate claim." An interstate claim is a claim filed in California but processed through the other state's UI office. Interstate claims are approved or denied based on the UI law of that state. They are not governed by California UI law. So, if you have questions about the handling of an interstate claim, you should contact the EDD for a referral to a legal aid office in that state.

For further information about your employment rights, contact the Workers' Rights Clinic.

Disclaimer

This Fact Sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society–Employment Law Center cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.