

## Vermont Workers Should be Eligible for Unemployment Compensation When They Leave Jobs for Urgent, Compelling, and Necessitous Reasons

The Unemployment Insurance Program is designed to provide short-term replacement of lost wages to individuals who are unemployed through no fault of their own.

**Problem:** Current Vermont statutes **do not allow** an individual to collect unemployment benefits if they had to leave a job for reasons such as an **unexpected loss of childcare**, or the need to care for an **ill family member**. Current statutes also say that someone who had to leave a job due to **domestic violence** can only get benefits after they have **first been denied** regular unemployment, making vulnerable unemployed workers in crisis jump through extra hoops before they can receive benefits.

Right now, if the worker did not leave employment “for good cause attributable to the employer,” then the worker is said to be “at fault” for “voluntarily” causing the separation by quitting. Benefits are therefore denied. However, **people who must** leave their job to care for an ill family member or due to an unexpected loss of childcare **are not at fault** for the daycare closing or the family member becoming ill and requiring care. They are also not voluntarily leaving a job but are forced to do so for an urgent and critical reason.

The requested statutory changes allow workers in these compelling situations, who are able and available to work to receive unemployment benefits.

**Proposed Legislation:** (Relevant sections, as drafted by legislative counsel)

21 V.S.A. §1344 amended to read: §1344 DISQUALIFICATIONS

a) An individual shall be disqualified for benefits:

(2) For any week benefits are claimed..... if the Commissioner finds that such individual is unemployed because:

(A)(i) The individual left the employ of the individual’s last employing unit voluntarily without good cause attributable to the employing unit....

(ii) However, an individual shall not be disqualified for benefits if the individual left such employment for one of the following reasons:

(II)(aa) Due to urgent, compelling, or necessitous circumstances, as determined by the Commissioner, including the individual’s injury or illness, to obtain or recover from medical treatment, to escape domestic or sexual violence, to care for a child following an unexpected loss of childcare, or to care for an ill or injured family member.

~~(3) For not more than six weeks nor less than one week immediately following the filing of a claim for benefits (in addition to any applicable waiting period), as may be determined by the Commissioner according to the circumstances in each case, if the Commissioner finds that the individual has left the employ of the individual’s last employing unit without good cause attributable to the employing unit because of a health condition, as certified by a health care provider, as defined in 18 V.S.A. § 9432(9), that precludes the discharge of duties inherent in such employment. [Repealed.]~~

21 V.S.A. § 1301 amended to read: § 1301. DEFINITIONS

~~The following words and phrases, as As used in this chapter, shall have the following meanings unless the context clearly requires otherwise:~~

(25) “Domestic and sexual violence” means domestic violence, sexual assault, or stalking as defined in 15 V.S.A. § 1151.

(26) “Family member” means an individual’s parent, grandparent, spouse, domestic partner, civil union partner, child, sibling, parent-in-law, or grandchild. As used in this subdivision (25), child includes an individual’s biological, foster, adoptive, or stepchild.

Sec. 3. 21 V.S.A. § 1325 amended to read: § 1325. EMPLOYERS’ EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer....The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

(I) The individual voluntarily separated from that employer due to urgent, compelling, or necessitous circumstances pursuant to the provisions of subdivision 1344(a)(2)(A)(ii) of this chapter.

**Claimants still must be “otherwise qualified” and “able and available” to work**

Even with the proposed changes, unemployed workers will only be eligible for benefits in weeks that they are able and available to work. This is a federal requirement for eligibility which cannot be changed by states.

Ability to work is shown by the claimant being capable to perform work, and not unreasonably limiting the time or place they can work. Availability is shown by doing a reasonable work search.

However, ability and availability can change from week to week. Claimants certify weekly whether they are able and available to work. As Vermont law is written now, claimants in the examples cited above can’t receive benefits **even after the urgent situation is resolved** and they are again able to work, since current statutes do not allow urgent family issues to be a qualifying reason for separating from employment. The proposed language provides that in specific instances, **once the critical issue is resolved** - once a daycare is found, or the family member no longer needs care for example - **a worker could then begin looking for work and be eligible for benefits.**

**In all these cases the employers’ experience rating would not change.** When an employee leaves for an urgent, compelling or necessitous reason, the employer would not have their experience rating increased.

## **Other States:**

The Unemployment Compensation Program is designed to help workers who lose their job through no fault of their own. Each state defines when a worker is not “at fault” in causing a separation. Vermont has recognized that unsafe work conditions, limited worker illness, unilateral reduction in pay, or escaping domestic violence can be reasons for someone to leave a job and not be found “at fault” in causing the separation.

Other states have broader definitions of eligibility criteria for unemployment benefits, finding other circumstances when a worker has good cause to separate and is therefore not at fault in causing the separation. These are listed in [U.S. DOL’s comparison of State UI laws](#) (at pg. 5-2).

**31 states** find no fault and good cause for separating for some form of **marital, domestic, or family obligations**.<sup>1</sup> This may include childcare arrangements.

**23 states** find no fault and good cause for separating if the separation is due to the **illness or disability of family member**.<sup>2</sup> This may include the need to seek medical treatment, including for addiction or other medical reasons.

Some states include the need to leave a particular job due to pregnancy as a valid reason for separation, as long as the claimant can do other jobs.

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<sup>1</sup> AK, AZ, AR, CA, CT, CO, DE, DC, HI, IL, IA, KS, ME, MA, MN, NE, NV, NH, NY, OH, OK, OR, PA, RI, SC, TX, UT, VA, VI, WA, WV, WI

<sup>2</sup> AK, AR, CA, CO, CT, DE, DC, HI, IL, ME, MA, MN, NV, NH, NY, OK, OR, PA, RI, SC, VA, WA, WI

## **Client Stories**

### **Family Responsibilities:**

E. worked at car dealership. Mother became terminally ill and he had to immediately go care for her. He begged his employer to hold his job, but the employer said no. One month later his mother died and he went back to the car dealership, but they no longer had a position available. He was denied UI because he “voluntarily quit.”

O., new American father of 5, had to leave work to care for the children during his wife’s kidney surgery recovery. Once wife was successfully on dialysis, he was able and available to work again, but he was denied UI benefits.

A. Mother had to quit work to care for her medically needy child at home who could not attend school. Mom could do remote work, at home. Mom was denied benefits.

B. worked construction for years with the same firm. Lost his job because in 2-month period he was sick, then daughter was sick, then wife was hospitalized. All these issues were resolved 2-3 weeks after he was let go for excessive absenteeism. B. was denied benefits.

D. worked in food service for years. Wife had baby and had post-partum depression. He had to stay with her and baby until wife’s suicidality cleared up. Lost job and did not get UI.

### **Loss of Daycare**

R. is a single mom working in long term healthcare. Daycare will not let the child come to daycare with fever or cough. Mom loses job due to for excessive absenteeism. Mom is denied unemployment benefits.

K. is a mother of 2 young children. Works in home health. Kids get sick for three weeks running. Mom also has a fever for part of this time and can’t go to healthcare setting with fever, cough or cold. They can’t go to daycare so she can’t go to work. Mom is fired for excessive absenteeism.

### **Important life-saving treatment:**

D. was an administrative assistant and had to leave job to attend short-term eating disorder clinic. Once done at clinic she was able and available to work, but she was denied benefits and could not get UI

M. is a middle-aged man with alcoholism who works in factories. Doctor gets him into a two-week treatment program. He loses job, due to his voluntary quit to go to treatment. Was not found eligible for UI when he returned from the program.