The Unemployment Fact-Finding Interview and Deputy’s Decision

What is a Fact-finding interview?

A fact-finding interview is held every time there is an “issue” with a claim that could prevent you from getting unemployment benefits. An issue could come up when the you first apply for benefits or at any time while you file weekly certifications. The issue could affect benefits for one week or many weeks going forward.

A person at the Department of Labor called an “adjudicator” will ask you and your employer questions over the phone and look at any proof that is provided by either of you. The adjudicator then decides to allow or deny your benefits based on Maine unemployment law. You will get this decision in writing and either you or your employer can appeal (disagree with the decision and ask for the decision to be review).

Why do I have a Fact-Finding Interview?

Here are some of the most common reasons that you might have a Fact-Finding Interview:

<table>
<thead>
<tr>
<th>Issue</th>
<th>What it means</th>
<th>Can I still get State Unemployment Benefits?</th>
<th>Can I get PUA?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voluntary Leaving</td>
<td>You quit your most recent job.</td>
<td>Yes, if you quit for reasons related to your job or due to illness or certain other reasons. You must explain why you quit and provide any proof you have about the reason.</td>
<td>Yes, if you are denied regular benefits and you are unemployed due to COVID - 19</td>
</tr>
<tr>
<td>Discharge</td>
<td>You were fired.</td>
<td>Yes, if you were not fired for “misconduct” Your employer must prove this.</td>
<td>Yes, if you are denied regular benefits and you are unemployed due to COVID - 19</td>
</tr>
</tbody>
</table>
### Remuneration

Your employer paid you severance pay, wages-in-lieu-of-notice, bonus, holiday pay or other unearned benefits.

Your weekly benefits will be reduced during weeks you receive unearned benefits. This does NOT include vacation pay.

Your weekly benefits will be reduced during weeks you receive unearned benefits.

### Refusal of a Suitable Offer of Work

You turned down suitable work

Yes, if the work that was offered is found not to be “suitable” by MDOL definition. You must explain why you refused and provide any proof you have about the reason.

Yes, if the work that was offered is found not to be “suitable” by MDOL definition. You must explain why you refused and provide any proof you have about the reason.

### Able and Available

You are physically able to work; you are available to work

You may be denied for weeks or parts of weeks when you were not able and available to work

You will not be denied if the reason you are not able or available to work is directly related to COVID-19.

### Work Search

Whether you are looking for work

You must provide evidence of employers you contacted each week, BUT while the Governor’s State of Emergency is in effect claimants do not need to look for work.

For more information about these issues see: [https://ptla.org/unemployed-worker-benefits](https://ptla.org/unemployed-worker-benefits)

### What happens during a Fact-Finding Interview?

You will get a notice of your fact-finding hearing with a date and time. The adjudicator will call you within an hour before or after that time to ask you questions about the issue. The interview could take just a few minutes or up to a half-hour.

If the issue also involves your employer, the adjudicator will call the employer separately. The adjudicator may call you back to get more information.

It is very important to be available for a fact-finding interview, even if you have returned to work. If you will not be available, be sure that your voice mail is set up to take messages. The adjudicator will leave you a number to call back. You can request to reschedule the fact finding but that could increase any delay.
How do I prepare for a Fact-Finding Interview?

Make sure your phone is charged and you’re in a place with good reception.

Make sure you have any paperwork ready and available. The adjudicator may ask you to send in copies of your paperwork including any evidence you want to present. Ask for the best way to do this.

There will be limited time for this hearing. Answer questions completely but leave out details that do not add anything to the story.

Remember that you have the right to tell the adjudicator your side of the story. Make notes beforehand, and be sure to focus on the points that make the best case for your claim.

What is the burden of proof and why does it matter?

Depending on the issue, either the claimant or the employer will be expected to prove that their version of events is correct.

If you are fired, it is up to the employer to prove that you did something wrong. It must be something that you did intentionally, or was irresponsible and harmed your employer.

If you quit a job, it is up to you to explain why you could not do the job any more, and to provide proof. This can be as simple as providing a note from your doctor saying that you could no longer to the job, but you are still able to work at a different job. If you are medically unable to do your job, you must ask your employer to “accommodate” your needs before you quit. This means offer you other work that you can do. If you were mistreated by your employer, or exposed to unsafe working conditions, it will be up to you to prove this.

If you turn down an offer of work, it is up to you to explain why the work was not “suitable” for you and to provide proof.

What if my benefits are denied?

You will receive a written decision either allowing or denying your unemployment benefits. Some decisions may only affect a week or two. For example, if your employer gave you severance pay it might mean that you don’t get unemployment benefits for a certain number of weeks, but you will continue to get benefits once those weeks have passed.

Other issues, like quitting a job or refusing work, could disqualify you from getting benefits until you return to work and earn a certain amount of money.
Should I file an Appeal?

If you disagree with the adjudicator’s (Deputy) Decision, you have only 15 days from the date of the decision to file an appeal. You can appeal the decision in the following ways:

- Online by using the ReEmployME system
- By email at Admin.Hearings@Maine.gov
- By calling 1-207-621-5001
- By fax at 207-287-5949.

It can be difficult to know whether to file an appeal during the COVID emergency. If you are denied regular unemployment benefits, you may still be able to get Pandemic Unemployment Assistance (PUA), if the reason you are not able to work is directly related to COVID (see chart above). For example, if you refuse work because you are at high-risk if you contract the virus and you have been told by your doctor that you should not return to your job, you could be denied regular benefits but be able to get PUA benefits.

If you are not sure whether you should appeal a decision, protect your rights by filing an appeal in one of the ways described above. Then, seek legal assistance from one of the following organizations. You can always withdraw the appeal before the hearing.

- Maine Equal Justice: call 626-7058 (extension 205) or leave a message on our website.
- Pine Tree Legal: check Pine Tree’s website for contact information and intake hours.
- Maine Volunteer Lawyer’s Project: check MVLP’s website for contact information and intake hours.