

A GUIDE TO UNEMPLOYMENT INSURANCE BENEFITS IN ARIZONA



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Note: This guide provides an overview of the unemployment insurance program in Arizona. It gives general information. It does not cover all issues that might arise in your claim for benefits and is not meant to take the place of legal advice by an attorney.

This guide was current as of April 2011. The law may have changed since that date. Changes in the law may affect your unemployment insurance benefits.

This guide is available in Spanish and in electronic format at www.morrisinstituteforjustice.org and in alternative format upon request.

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INSURANCE BENEFITS IN ARIZONA**

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I. BASICS OF UNEMPLOYMENT INSURANCE BENEFITS

1. What Is Unemployment Insurance?

Unemployment insurance (UI) is a joint federal-state program that provides temporary financial assistance to unemployed workers. The purpose of unemployment insurance is to give temporary financial help to workers who are unemployed through no fault of their own.

In Arizona, the Arizona Department of Economic Security (DES) administers the unemployment insurance program. Most Arizona employers pay unemployment insurance taxes to DES to finance the unemployment insurance trust fund. This fund covers the cost of the unemployment insurance program. Each employer has an individual unemployment insurance account with DES. Each employer's account is credited when the employer pays its taxes, and the account is charged when a former worker receives unemployment insurance benefits. DES sets the employer's contribution rate based on many factors such as the current unemployment rate and the benefits paid to former employees.

DES decides if you are eligible for benefits, issues benefit payments, collects employer taxes and issues rules for the unemployment insurance program.

Throughout this guide we will use the words unemployment insurance benefits, unemployment benefits and benefits to mean the same thing.

2. Where Can You Get More Information?

Arizona state law that covers the unemployment insurance program can be found in Title 23, Chapter 4 of the Arizona Revised Code. www.azleg.gov/ArizonaRevisedStatutes.asp?Title=23. There also are specific unemployment insurance policies in Title 6, Chapter 3 of the Arizona Administrative Code. www.azsos.gov/public_services/Title_06/6-03.htm.

Information about unemployment insurance benefits can be found on the DES website by clicking on "Unemployment-Insurance." www.azui.com. The unemployment insurance website is in both English and Spanish.

If you have general questions about unemployment benefits, you can call the Unemployment Insurance Call Center. In Maricopa County, the number is (602) 364-2722. In Pima County, the number is (520) 791-2722. Outside of Maricopa and Pima Counties, the number is (877) 600-2722. Press 5 for general information. The TTY number is (877) 877-6226.

Information about the unemployment insurance program is also available at www.AzLawHelp.org.

3. Who Is Covered by Unemployment Insurance?

Most employees and jobs are covered by unemployment insurance. An "employee" is a worker who performs work for an employer and who is under the direction or control of the employer. Many temporary, part-time or seasonal workers are covered by unemployment insurance. DES uses the term "insured" or "covered" work to describe work covered by unemployment insurance.

The main exceptions to covered employment are work done as an independent contractor, independent agent, independent business person, or independent consultant. Another exception is work in small non-profit organizations that employ less than 4 employees.

Some employers may call an employee an independent contractor to avoid paying taxes for the employee. This is a complicated subject. Contact DES if you have questions if you are an independent contractor.

Relevant state laws and rules: Arizona Revised Statutes sections 23-613 to 23-617; Arizona Administrative Code sections R6-3-1723 to R6-3-1725.

4. How Much Are Unemployment Insurance Benefits?

Unemployment benefits are paid once a week. The amount you get in benefits is 4% of the wages earned in the highest quarter of your base period. See pages 9-10 of this guide for an explanation of base period. Arizona's unemployment benefits are among the lowest in the country. The maximum weekly benefit is \$240. The lowest amount you can get is \$60 a week.

You must pay federal and state income taxes on your unemployment benefits. You can ask DES to take out federal and state income taxes directly from your benefits. Also, if you owe child support, DES can take this directly from your weekly benefit amount.

Relevant state laws and rules: Arizona Revised Statutes sections 23-779, 23-789.

5. How Long Can You Get Unemployment Insurance Benefits?

You can get regular unemployment benefits for up to 26 weeks. During this period, the benefits are financed by your employer. After you receive benefits for 26 weeks, the federal government may provide emergency and extended benefits for up to 73 additional weeks in times of high unemployment. In 2011, you may be able to receive up to 73 weeks of federal benefits, for a total of 99 weeks. This may change after 2011 depending on federal funding for unemployment benefits.

Relevant state laws and rules: Arizona Revised Statutes section 23-780.

6. How Are Unemployment Insurance Benefits Paid?

If you qualify for benefits, you are enrolled in the Electronic Payment Card (EPC) program. The EPC card works just like a bank debit card. The EPC card is issued by JPMorgan/Chase Bank. You get your EPC card in the mail within a week after you are approved for benefits. It is mailed to you in a plain envelope for security reasons. Do not throw out the envelope before you take out the EPC card. Information about how to activate and use the EPC card will be sent to you in a different envelope.

Your EPC card has a zero balance until your first benefit payment is made. The card is good for three years, so be sure to keep it in a safe place. Watch out for fees on your EPC card just as you would on a bank debit card. There are no fees if you use your EPC card at Chase or Allpoint ATMs or at stores who take regular bank debit cards. However, there may be fees if you use your EPC card at an ATM other than Chase or Allpoint.

If you do not want an EPC card, you can have your benefits put directly into your checking or savings account. To start direct deposit, fill out the Agreement

for Direct Deposit Form, Form UIB-1091A, found on the DES website. Mail your filled out application to the DES address listed on the first page of the form along with a blank check with the word “void” written across the front of the check. Direct deposits usually begin 10 days after DES receives the direct deposit form. If you change your bank account, remember to fill out a new direct deposit form and mail it to DES.

II. APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

1. When Can You Apply for Unemployment Insurance Benefits?

You can apply for benefits after your last day of work. If you are still working, you need to wait until after your last day of work to fill out the application for unemployment benefits.

2. What Information Do You Need to Apply for Unemployment Insurance Benefits?

You need the information below when you file an application for benefits:

- ✓ Your social security number;
- ✓ Your Arizona driver's license number or other Arizona state-issued identification;
- ✓ Your mailing address, including city, state and zip code;
- ✓ The county where you live;
- ✓ The names, addresses and phone numbers of every employer you worked for in the last 18 months;
- ✓ The last day you worked before filing your application;
- ✓ The reason you no longer work for your last employer;
- ✓ If you got vacation, holiday, sick or severance pay when you left your last job, the amount paid before deductions and the date it was paid to you.

It is very important when you apply for unemployment benefits that you give the right mailing address and telephone number for your last employer.

Tip: Be sure to keep all papers about your unemployment claim. You may need these papers to show your eligibility or that you gave DES the information asked for.

3. Where and How Do You Apply for Unemployment Insurance Benefits?

DES does not have walk-in offices to apply for unemployment benefits in most major cities. However, there are offices in San Luis and Somerton where you can file for unemployment benefits in person. You also can file for benefits by telephone or on-line.

- **By Telephone.** You can file for unemployment benefits by telephone. In Maricopa County, the number is (602) 364-2722. In Pima County, the number is (520) 791-2722. Outside of Maricopa and Pima counties, the number is (877) 600-2722. For TTY the number is (877) 877-6226. When you call one of these numbers, you reach the Arizona Reemployment Rapid Access (ARRA) system. ARRA is an interactive voice response system, which means that it asks you a question and you answer by pressing a button. You must have a touch-tone telephone to use the system. The system is open Monday through Friday from 7:30 a.m. to 7:30 p.m.

The first time you call the ARRA system, you pick a Personal Identification Number (PIN). This is a four-digit number you use whenever you give or get information about your benefits. Keep your PIN number in a safe place.

The ARRA system asks you questions that require a "yes" or "no" answer. To answer "yes," press 1. To answer "no," press 9. To

repeat a question, press 7. After you answer all the questions, a DES customer service representative comes on the telephone to help you finish your application.

It is important to answer all the questions correctly and completely. If you make a mistake, tell the customer service representative so the mistake can be fixed. Do not hang up until the customer service representative tells you that your application is completed. Write down the date, the person you spoke to and what you were told.

- **On-line.** You can file on-line at www.azui.com. If you do not have a computer, you can use the computers free of charge at a DES One-Stop Center, DES Employment Services Office, or the public library. You can find a list of the One-Stop Centers at www.azdes.gov/main.aspx?menu=260&id=2214. You can find the Employment Services Offices at egov.azdes.gov/eol/EOLSearchResults.aspx?cat1=18. You can file initial claims on-line from 12:01 a.m. Sunday night until 5:00 p.m. on Friday. The on-line application asks questions that you must answer. The questions with a red asterisk (*) must be answered in order for you to move to the next question. Once you finish all the questions, you are given a confirmation number to show that your application is completed. Do not exit the application before you get a confirmation number. Keep your confirmation number in a safe place.

Tip: It is important to keep track of your application. Take notes every time you talk to DES staff. Write down the date, the name of the person you spoke to and what you were told.

4. What Happens After You Apply for Unemployment Insurance Benefits?

Once you apply for benefits, you should get the following papers by mail in about one week:

- A wage statement called a UB-107. This paper shows the wages your past employers reported to DES for your base period. It also shows your weekly benefit amount, your total benefits and your benefit year.
- A guide to Arizona unemployment insurance written by DES. This pamphlet explains your rights and responsibilities for your unemployment claim.
- A certificate of understanding that you will be required to sign. By signing, you state that you read the guide to Arizona unemployment insurance and understand what it says.

It is very important to look at the wage statement to make sure it is correct. The amount of money you get depends on your past wages. If you think the wage statement is not correct, contact DES immediately. See the next section of this guide on how to correct your wage statement.

If more than a week goes by and you do not get all of the papers listed above or hear from DES, contact DES right away to check on your claim. In Maricopa County, call (602) 364-2722. In Pima County, call (520) 791-2722. Outside of Maricopa and Pima Counties, call (877) 600-2722. For TTY, call (877) 877-6226.

After you file for unemployment benefits, DES tells your last employer that you filed for benefits. DES also tells the employer the reason you gave for leaving your last job. DES asks the employer the last day you worked and the reason you are unemployed. DES also asks about any payments made to you for unused

vacation, sick or severance pay. Your employer has 10 days to object to your claim for unemployment benefits.

Relevant state laws and rules: Arizona Revised Statutes section 23-773; Arizona Administrative Code section R6-3-1803.

5. What If the Wage Statement Is Incorrect or Wages Are Missing?

DES only counts the wages that are on your wage statement, Form UB 107. If you find that some of your wages are either wrong or missing, you should file what is called a wage protest. DES asks that you file a wage protest within 10 days of receiving your wage statement. The wage protest must be filed before the end of your benefit year.

The wage protest form is Form UB 217. To ask that your wages be corrected, fill out the form and either e-mail it to UITAXWAGE.PROTEST@azdes.gov or fax it to (602) 532-5564. You also can call the Arizona Unemployment Insurance Call Center to file a wage protest.

DES may ask you to show your social security card and give proof of the correct or missing wages. The proof may be pay stubs, bank statements, time sheets, tax records, personal calendars, work schedules or letters from your past employers. Keep copies of all papers you give to DES.

Be sure to look at your wage statement for incorrect wages. If you receive unemployment benefits for wages you did not get, you may have to pay the benefits back.

Relevant state laws and rules: Arizona Administrative Code section R6-3-1803.

6. When Will Unemployment Insurance Benefits Start?

The week you apply for unemployment benefits is called a "waiting week." This means that you cannot get unemployment benefits for that week. If you are found eligible, the second week you are unemployed will be your first week of benefits.

Relevant state laws and rules: Arizona Revised Statutes section 23-771.

III. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE BENEFITS

1. Who Can Get Unemployment Insurance Benefits?

To be eligible for unemployment benefits, you must:

- File an application for benefits;
- Register for work at the DES Employment Service Office. You are automatically registered when you file an application for benefits;
- Have enough wages. See the next section to learn about which wage count in determining your benefits;
- Be unemployed through no fault of your own. DES looks at why you are no longer at your last job. See pages 12-13 of this guide for more information on being unemployed through no fault of your own; and
- Meet the conditions below:
 - **Able to work, both physically and mentally;**
 - **Available to work; and**
 - **Actively seeking work.**

Relevant state laws and rules: Arizona Revised Statutes section 23-771.

2. Which Wages Count for Unemployment Insurance Benefits?

DES looks at the wages you earned in your past work. DES will decide if you earned enough wages to be eligible for unemployment benefits:

- First, DES calculates a period of time called your **base period**; and
- Second, DES looks at your **wages** during your base period.

Base Period

To be eligible for benefits, you must earn enough wages during a 12-month period called the **base period**. A base period is broken down into 4 quarters. Each quarter has three months:

- January, February, March;
- April, May, June;
- July, August, September; and
- October, November, December.

To figure out your base period, the quarter of the year in which you apply for benefits is not counted. Also, the quarter of the year directly before you apply is not counted. Figuring out your base period can seem difficult. The table below is an attempt to make it easier.

If you file your claim in:	The base period is the 12-month period ending the prior:
January, February, March	September 30
April, May, June	December 31
July, August, September	March 31
October, November, December	June 30

For example, if you applied for benefits on March 10, 2011, your base period would be October 1, 2009 through September 30, 2010. If you applied on August 14, 2011, your base period would be April 1, 2010 through March 31, 2011.

Wages During Base Period

During your base period, you must meet one of the two tests below to have enough wages to get benefits.

1. The first wage test has two parts. First, DES looks at the highest total wages earned in any one quarter in your base period. That amount must be at least \$1,500. Second, the total wages for all four quarters of your base period must be at least 1 and 1/2 times the wages earned in your highest quarter. (For example, if you earned \$2,000 in the highest quarter, you must have earned at least \$3,000 (\$2,000 times 1 and 1/2) during the base period.

OR

2. The second wage test also has two parts. First, you must have earned a total of at least \$7,000 in any two quarters of your base period. Second, you must have earned at least \$5,987.50 in one quarter in your base period.

If you meet either of these tests then you have enough wages to get benefits.

If you do not meet these tests and you are unemployed, you can wait and apply again in the next quarter. If your wages were the highest right before you left your last job, you will have a better chance of meeting the wage tests in the next quarter.

Relevant state laws and rules: Arizona Revised Statutes sections 23-605, 23-622, 23-771.

3. What If You Have Wages in Two or More States?

If you earned wages in Arizona and another state during your base period, you can choose to get benefits in either Arizona or the other state. Whichever state you pick, you can combine your wages from both states. DES calls this a "combined wage claim." The state you pick is important for two reasons. First, Arizona's weekly benefit payments are low compared to most other states. If you file in the other state where you worked and combine your wages, you may get higher benefits. Second, many other states use a different base period. For example, they may count wages earned in the quarter in which the unemployment insurance claim is filed and/or in the quarter before the claim is

filed. This different base period from what Arizona uses may give you a higher benefit amount in the other state.

Always ask DES if you could get higher unemployment insurance benefits in the other state.

Relevant state laws and rules: Arizona Revised Statutes section 23-644; Arizona Administrative Code section R6-3-1806.

4. What Is Unemployed Through No Fault of Your Own?

The unemployment insurance program gives benefits to workers who are unemployed "through no fault of their own." DES only looks at the reason you stopped working at your last employer. DES calls this the reason for your "separation" from work. The most common reasons are:

1. **Layoff** (lack of work or reduction in force): Your job ended in a layoff if you were unable to keep working because your job stopped and your employer did not offer you other work. If you are laid off, you are unemployed through no fault of your own.
2. **Quit**: If you refused to work when there was still work to be done then you quit your job. If you quit your job, you may be eligible for benefits if you can show you left for: (1) good cause in connection with your work or (2) a compelling personal reason. In other words, you must show you had a real and important reason for leaving your job. See pages 17-21 of this guide for more information.
3. **Discharge** (fired/terminated): If your employer did not allow you to keep working when there was work to be done, then your employer discharged you. If you were discharged, you are unemployed through no fault of your own unless your employer can show you were discharged for "willful or negligent misconduct." See pages 21-23 of this guide for more information.
4. **Resignation**: A resignation can be either a discharge or a quit depending on what happened. In general, if your employer asked

you to resign, you were discharged. If you voluntarily decided to resign, you quit your job.

You and your employer may see your "separation" from your job differently. For example, you file a claim and say you were fired but your employer tells DES that you quit. If this happens, DES will get information from you and your employer. This information may include what you say, what your employer says, what other witnesses say, letters or records from doctors or other persons, and your employment records. DES will decide whether you quit or were discharged based on all the information it gets.

Tip: DES may contact you to get more information. Be sure you understand the reason for the call. You can ask the person calling you what your employer told DES. Answer the questions truthfully. If you do not understand a question, let the caller know. Do not talk about other matters.

Relevant state laws and rules: Arizona Revised Statutes sections 23-619.01, 23-775; Arizona Administrative Code sections R6-3-5005 to R6-3-5040, R6-3-50135 to R6-3-51490.

5. What Is "Able To Work"?

You must be "able to work" to get unemployment benefits. "Able to work" means you are physically and mentally able to do "suitable work." This means you must be able to work full-time in a job like your past jobs or in another job that you have the skills, training and education to do.

If you are sick for a short time, you are not eligible for benefits until your doctor says you can work again. In general, if you apply for Social Security or other disability benefits and claim you are unable to work, DES will find you are not able to work for unemployment purposes.

You will not get benefits for any week when you are not able to work.

If DES decides you are not able to work and you disagree, you can file an appeal. Information on appeals is on pages 24-26 of this guide.

Relevant state laws and rules: Arizona Administrative Code sections R6-3-5205, R6-3-52105 to R6-3-52510.

6. What Is "Available for Work"?

You must be "available for work" to get unemployment insurance benefits. You are "available for work" if:

- You have the skills, training or education to work at available jobs;
- You can work full-time;
- Your personal life allows you to have a full-time job (for example, you have someone to take care of your children); and
- You can start work at the time the employer wants.

If you cannot work in your usual type of job, you must show: (1) you can do other full-time work; (2) such work exists in your community; and (3) you are willing to take such work.

You will not receive benefits for any week when you are not available for work.

If DES decides you are not available for work and you disagree, you can file an appeal. Information on appeals is on pages 24-26 of this guide.

Relevant state laws and rules: Arizona Administrative Code sections R6-5205 to R6-3-5290, R6-3-52105 to R6-3-52510.

7. What Is "Actively Seeking Work"?

You must be "actively seeking work" to get unemployment benefits. "Actively seeking work" means you make an active and serious effort to find full-time work. You should try to find work in your job area.

Write down of all your efforts to find work, including applications submitted, telephone calls made, interviews attended, and the time spent looking for jobs in the newspaper and on-line. When you get federal benefits, you must submit an application to at least 3 employers per week.

You will not get benefits for any week when you are not actively looking for work.

You also can lose your unemployment benefits if you turn down an offer for "suitable work" without good cause. Suitable work is work that fits your skills, training, experience, past earnings and is within 30 miles of your home.

If DES finds out you turned down suitable work, you are disqualified from getting benefits. If you are disqualified, you can get benefits again by working and earning wages that total 8 times your weekly benefit amount. For example, if your weekly benefit amount is \$200, then you may get benefits once you earn \$1,600 and are unemployed again.

If DES decides you are not actively looking for work or that you refused suitable work and you disagree, you can file an appeal. Information on appeals is on pages 24-26 of this guide.

Relevant state laws and rules: Arizona Revised Statutes section 23-776; Arizona Administrative Code section R6-3-52160.

8. Can You Go to School and Get Unemployment Insurance Benefits?

Full-time Students: If you are a full-time student, usually you are not available for work and cannot get unemployment benefits. However, you can get benefits if you show:

- You went to school full-time and worked full-time for the nine months before you filed for benefits; and
- In order to go to school, you did not leave or refuse suitable full-time work or reduce your work hours to part-time.

Part-time Students: If you go to school part-time, you are available for work if you can show the following:

- Your school is not as important as your full-time job;
- You did not quit full-time work to be a student;
- There is full-time work available at hours when you do not go to classes; and
- You will change your school hours or drop classes in order to take full-time work.

Relevant state laws and rules: Arizona Revised Statutes section 23-771(A)(4); Arizona Administrative Code sections R6-3-5040, R6-3-5240.

9. Can You Go to Job Training and Get Unemployment Insurance Benefits?

Vocational training or school classes that help you increase your skills to work again may be approved job training. If you go to an approved job training program, you can get your unemployment benefits at the same time. This type of program helps you to move from a job that has a high unemployment rate to a job that is growing and in high demand.

To find out more about approved job training programs, go to a One-Stop Center or DES Employment Services Office. You can find the location of these offices online.

Relevant state laws and rules: Arizona Revised Statutes section 23-771.01; Arizona Administrative Code section R6-3-1809.

10. Do Vacation, Severance or Other Employer Payments Affect Your Unemployment Insurance Benefits?

If you received vacation, holiday, sick leave or severance pay when you left your last job, these payments count as earnings. These payments affect the start date for your unemployment benefits. These payments will be divided over the

beginning weeks of your unemployment claim. As an example, if you received \$1,000 in unused vacation pay and your weekly earnings were \$500, then your vacation pay would be applied to the first 2 weeks after you stopped working. You will not get unemployment benefits for these 2 weeks. After the 2 weeks end and your waiting week is over, you can get 26 weeks of regular unemployment benefits.

Relevant state laws and rules: Arizona Revised Statutes section 23-621; Arizona Administrative Code section R6-3-55460.

11. How Do You Reopen an Existing Unemployment Insurance Claim?

When you first apply and get unemployment benefits, your benefit year is established. The benefit year normally starts the Sunday of the week that you file your application. Your benefit year ends 365 days from that date. Look at your wage statement for your benefit year.

If you stop filing your weekly claims for any reason during your benefit year, you must restart your claim to get benefits again. You can restart your claim online or by calling the DES Unemployment Insurance Call Center. If you got your regular unemployment benefits and federal emergency and extended benefits are available, you must contact the Call Center to restart your claim.

IV. IF YOU QUIT YOUR JOB

In general, if you voluntarily quit your job without a good reason, you cannot get unemployment benefits. However, depending on why you quit, you still may get unemployment benefits.

1. What If You Quit for "Good Cause in Connection with Your Work"?

You can get unemployment benefits if you quit your last job for what is called "good cause in connection with your employment." Quitting with good cause means that you had a real and important reason for leaving your job even though you wanted to keep working. If you quit without good cause then you will be disqualified from getting unemployment benefits.

To decide whether you quit for good cause, DES asks you the specific reasons you left work. DES then answers the question:

"What would a reasonable worker have done in a similar situation?"

You must show a very good reason for quitting your job. You must convince DES that a reasonable person would quit under the same conditions.

A reasonable worker would not leave a job quickly. Therefore, DES generally will not find you had good cause to leave unless you took one or more of the steps below to fix your work situation before quitting:

- Gave the work a fair trial;
- Tried to get poor working conditions changed; or
- Asked for time off to solve a personal problem.

Generally, DES will find you quit for good cause when there was no other reasonable choice except to leave your job. Some examples of "good cause" are:

- Reasonable fear for health or safety. Example: You quit because your working conditions caused you to get sick. Although you asked, your employer would not change your job or those conditions.
- Abusive working conditions. Example: You quit because of repeated verbal abuse by your boss. You took steps to stop the abuse, but your boss would not stop.
- Employer fails to pay wages and employee tried to get paid, or employer repeatedly pays wages late or pays with checks that bounce.

Many typical reasons for leaving a job are not considered "good cause" and can stop you from getting unemployment benefits. The reasons below do not generally count as good cause for quitting:

- Ordinary job stress, unless it is so bad that you need medical care, mental health treatment or hospitalization;
- Personality conflict with a supervisor;
- Fear of immediate discharge or layoff;
- Going back to school;
- Failure to get a raise, unless because of illegal discrimination; and
- Lack of promotions, unless because of illegal discrimination.

In general, if you want to have the best chance to get unemployment benefits, do not quit a job quickly. Take steps to keep your job. Write down in detail all the steps you take to fix a bad situation. Also keep a copy of all the papers you get from your employer including handbooks, memos, notices and letters.

If you are disqualified from getting unemployment benefits because you quit a job without good cause, you can restart benefits if you work again and earn wages that total 5 times your weekly benefit amount.

Relevant state laws and rules: Arizona Revised Statutes section 23-775(1); Arizona Administrative Code sections R6-3-5005 to R6-3-5040, R6-3-50135 to R6-3-50515.

2. What If You Quit for a Compelling Personal Reason?

If you quit work for a compelling personal reason not connected to your employer then you will be able to get benefits. A compelling personal reason is an important legal or moral responsibility that left you no choice except to quit. These duties do not relate to your work but to your personal life. Some examples of quitting for a compelling personal reason include the following:

- You quit to take care of a small child. You tried to find someone to care for your child, but there was no one else.

- You quit because of the illness or death of a child, spouse or parent. You could not get time off work and there was no other choice but to leave work.
- You quit because your work became too difficult due to your pregnancy. Your employer would not give you time off and would not transfer you to other work.
- You quit to move with your spouse who took a job in another city.

If DES finds that you quit work for a compelling personal reason, you will get benefits.

The difference between quitting for "good cause in connection with your employment" and quitting for a "compelling personal reason" is how your last employer will be impacted. If you left your job for a compelling personal reason, this will not impact your employer's unemployment insurance tax rate. If you quit for good cause in connection with work, then your former employer's tax rate may be impacted.

Relevant state laws and rules: Arizona Revised Statutes section 23-727(D); Arizona Administrative Code sections R6-3-5005, R6-3-50135 to R6-3-50515.

3. What If You Quit Because You Could Not Get to Work?

Sometimes you can get unemployment benefits if you left a job because of transportation problems. It depends on the facts in your case. If you took a job knowing about the travel time to work, you usually cannot get benefits if you quit because the travel time to work caused you problems. However, if something changed in your job, for example, your work site moved, this may be a compelling reason for quitting. DES will look to see if your travel requirements were above normal for your kind of job or if you had other important reasons for leaving because of transportation issues. Examples of compelling personal reasons are:

- You traveled over 30 miles each way from your home to work and back home; or

- It took you more than 1 and 1/2 hours to get to work from home.

Relevant state laws and rules: Arizona Revised Statutes section 23-775(1); Arizona Administrative Code section R6-3-50150.

4. What If You Quit Because of Domestic Violence?

There are specific laws about unemployment benefits for victims of domestic violence. DES will not disqualify a worker from getting benefits if the worker is a victim of domestic violence and left work due to a documented case of domestic violence.

Domestic violence is a compelling personal reason not connected to the employer when:

- Domestic violence forced the worker to leave work and the worker could not take time off work; or
- Staying at work would present a threat to the safety of the worker, the worker's family or co-workers and the only option was to leave work.

Relevant state laws and rules: Arizona Revised Statutes section 23-771(D); Arizona Administrative Code section R6-3-50155(H).

V. IF YOU WERE DISCHARGED FROM YOUR JOB

If you were discharged from your job, you may get unemployment benefits depending on why you were discharged.

1. What If You Were Discharged for Misconduct?

If you were discharged (fired or terminated) from a job, you can get unemployment benefits unless your last employer can show that you were discharged for "willful or negligent misconduct" related to your work. "Misconduct" has a very specific legal meaning. Although your employer may say you were fired for misconduct, simply calling it misconduct is not enough to stop

you from getting benefits. Your employer must show that you knowingly broke an important rule or that you did not do an important job duty.

You are required to do your work with care and you should make a reasonable effort to meet the standards your employer expects. Acting carelessly over and over again is considered misconduct.

Specific actions that may be considered "willful or negligent misconduct" include the following:

- Violating a rule on purpose that your employer always enforces and that you knew or should have known about;
- Absence from work without letting your employer know and without a good reason;
- Missing work without a good reason when your employer has given you warnings about missing work;
- Failure to return to work after an approved leave of absence without letting your employer know;
- Repeatedly late for work after being warned and without a good reason;
- Refusal or failure to perform reasonable assignments your employer gives you;
- Putting false information on an application or time sheet;
- Insubordination, disobedience, or repeated and inappropriate use of abusive language;
- Violent behavior on the job; or
- Being drunk, using illegal drugs or falling asleep on the job.

When there is a discharge, your employer must show the reason for the discharge was misconduct. If your employer fails to show specific facts about your alleged misconduct, DES should find the employer did not prove misconduct. If your employer gives specific facts about your work behavior that you think are not true, it is important that you explain what happened. For example, if your employer discharged you for violating a company rule to not eat while working in the factory area and it is well known that employees eat while working in the factory area, you should point this out to DES. You can show DES that the company rule was not applied to everyone by giving your statement or a statement of a co-worker.

If you are disqualified from benefits for misconduct, you can restart your benefits if you work again and earn wages that total 5 times your weekly benefit amount.

Relevant state laws and rules: Arizona Revised Statutes sections 23-619.01, 23-775(2); Arizona Administrative Code sections R6-3-5105 to R6-3-5185, R6-3-51140 to R6-3-51490.

2. What If You Were Discharged Because of a Compelling Personal Reason?

If you were discharged because of a compelling personal reason, you may be eligible for unemployment benefits if: (1) the reason is not related to your work and (2) the situation was outside your control.

In some situations you may be eligible for unemployment benefits if you were discharged because of a compelling personal reason not caused by the employer and either: (1) the employer had no reasonable alternative to the discharge such as you were absent because you were in jail or (2) you were a victim of domestic violence.

Relevant state laws and rules: Arizona Revised Statutes sections 23-619.01, 23-775(2); Arizona Administrative Code sections R6-3-5005, R6-3-5105.

VI. APPEALS

1. What If You Disagree with a Decision on Your Unemployment Insurance Claim?

The initial DES decision is called a "Determination of Deputy." This means that DES has made a decision or "determination" about your claim. There are several reasons DES may deny your claim. For example, DES may find that your employer fired you for misconduct. You have the right to appeal any decision made by DES that finds you cannot get unemployment benefits. To appeal means that you ask DES to review its decision. The notice from DES that denies you benefits will explain your appeal rights. During an appeal, you may give DES more information to consider.

There are several important things to know if you file an appeal.

- **Filing Deadlines:** You have **15 days** from the mailing of the "Notice of Determination of Deputy" to file an appeal. The date that DES mailed the notice is in the upper-right hand corner of the notice. **Do not miss this deadline.** If the 15th day falls on a weekend or holiday, then you have until the next work day. The date of the postmark on your appeal is the date it is considered filed. If you file late, you will have to show that you had "good cause" for missing the deadline. "Good cause" is only: (1) DES gave you wrong information or made some other error, (2) there was a delay by the post office, or (3) you changed your mailing address at a time when there was no reason to notify DES of the change. Do not wait until the last minute. It is always better to file early to avoid any problems.
- **How to File an Appeal.** You can file an appeal on-line, by telephone, by mail or by fax.
 1. **On-line:** You can file an appeal on-line at www.azui.com. At the end of the process, you should get a confirmation number. This number is important because it shows DES got your

appeal. Print the confirmation page and keep it as proof of your appeal.

2. **By Telephone:** You can file an appeal by telephone. To do this, you call the number on the front of DES' determination notice. The DES customer service representative will give you a confirmation number for your appeal.
 3. **By Mail or Fax:** DES has a form called Request for Reconsideration/Appeal, Form UB 126, that you can use to file an appeal. You do not need to use the DES form. You can use any paper to file an appeal. You can either mail the appeal to the address or fax it to the phone number listed in the appeal rights section of the notice. This address or phone number may be different from the address and phone number on the DES letterhead. If you submit the appeal by fax, be sure to keep your fax confirmation sheet. If you mail the appeal, send it by certified mail so that you have proof you mailed it on time. You should call the DES Office of Appeals at (602) 347-6344 to make sure your appeal was received
- **What to Say in the Appeal.** You do not need to make a long statement of why you disagree with DES' decision. In general, be careful what you write in the appeal. Keep what you say short, especially if you intend to get an attorney. You may want to say something like:

"I disagree with the decision because DES made a mistake and I should get benefits under the law."
 - **Keep Copies of All Papers You Give DES.**
 - **File Weekly Claims While Your Appeal Is Ongoing.** It is important that you continue to file your weekly claims while you appeal. Even if you are not getting benefits, you need to file the weekly claims.

Then if you win your appeal, you will get the back benefits that DES owes you more quickly. See pages 31-34 of this guide for more information on the weekly reporting requirements.

Tip: There are organizations that give free advice and representation to workers filing for unemployment benefits. Contact them early in your appeal process. See pages 36-38 of this guide for the list of organizations.

Relevant state laws and rules: Arizona Revised Statutes section 23-773; Arizona Administrative Code sections R6-3-1404, R6-3-1502 to R6-3-1503.

2. What Happens After You File an Appeal?

After you file your appeal of the Determination of Deputy, DES will send you a notice for a hearing. DES should mail the notice at least 10 days before the hearing. The hearing is held by an Administrative Law Judge or “ALJ.” The judge is in charge of the hearing. The judge decides who will testify, what documents will be considered, who is telling the truth, and who will win the hearing. The hearing will be tape-recorded. The judge will swear in all witnesses.

Continuances

If the hearing is set for a date and time when you cannot attend, you can ask for a continuance. You must have a good reason for the continuance. DES expects you to reschedule other appointments, if you can. Examples of good cause to continue the hearing are an important medical appointment or jury duty. If you are trying to get an attorney but you have not had an interview or the attorney has not told you if he or she will represent you, that may be a good reason to get a continuance. Also, if your attorney needs more time to prepare for the hearing, your attorney can request a continuance.

3. What are Your Hearing Rights?

The DES website has a section explaining the hearing process, including information on how to represent yourself at a hearing. You can find this explanation in the "Important: What You Need To Know-Appeals" part of the unemployment section of the DES website. www.azui.com. Read the material carefully. DES also sends information with the Notice of Hearing. If your hearing is by telephone, follow the instructions on your hearing notice. You must call at least 30 minutes before the hearing starts. The telephone number to call is listed on your hearing notice. You also can check in for the hearing on-line. If you have questions about what is happening with your appeal, you can call and ask to speak to the docket officer.

A person who has filed for unemployment benefits has many rights. The process to decide whether you will get unemployment must be fair. Here are some of your rights.

A. Right to Attend the Hearing In Person

DES sets most hearings as telephone hearings. The parties and witnesses call in to the DES hearing office for the hearing. You have the right to attend the hearing in person. If you want to attend the hearing in person, you must tell DES. It is best to tell DES as soon as you know you want to go to the hearing in person. In person hearings are only held in Tucson and Phoenix. Plan to arrive at the hearing office at least 30 minutes before the start of your hearing.

B. Right to Know the Issue at the Hearing

Read the hearing notice to know what issue will be decided at the hearing. The issue is the specific question DES will decide. For example, you think you were fired but your employer says that you quit. At the hearing, DES will decide whether you were fired or quit.

Tip: "Last Employer" vs. "Base Period Employer."
Most hearings are about the reason you no longer work for your last employer. This is the employer you worked for just before you filed for benefits. Do not confuse this with a "base period employer." This is an employer you worked for during your base period.

C. Right to See the Information DES Has in its File

DES keeps a file with all the papers related to your case. It is called the "case file." It is important to look at the case file before the hearing so you know what your employer is saying. Your case file is located at the address where your hearing will be held. You can review your file between 8:00 a.m. and 5:00 p.m. on any business day. If you cannot go the office to look at your file, call the number at the top of the hearing notice and ask to speak with the docket officer. Ask the docket officer to mail a copy of the case file to you.

D. Right to Have Witnesses Testify at the Hearing

Witnesses can be helpful to your claim for benefits. The best witnesses have first-hand knowledge of important events. For example, if your employer says that you fell asleep on the job but a co-worker was there and can say you were not sleeping, your co-worker is a helpful witness with first-hand information. Witnesses are not required, but if you have them, ask them to testify at the hearing.

Witnesses can attend the hearing by telephone or in person. If the witness is willing to testify and the hearing is by telephone, the witness can testify by telephone. If the hearing is in person, the witness can either come to the hearing or testify by telephone.

E. Right to Submit Documents

You can submit documents that are helpful to your claim. Documents can be such things as employment records or a written statement from a doctor.

F. Right to Subpoena a Witness or Documents

If an important witness will not agree to testify on the telephone or in person at the hearing, you can ask the judge to issue a subpoena. A subpoena is an order from the judge that requires a person to testify at the hearing. The subpoena will order the person to testify at the hearing by telephone or in person.

You also can ask for a subpoena to get documents that are important to your claim.

You should request the subpoena at least **5 days** before the hearing. Subpoena forms are on-line or you can call the DES Office of Appeals for help.

G. Right to Ask Questions of Witnesses

You have the right to ask questions of any witness. Do not argue or get angry with any witness or the judge. The judge also will ask the witness questions.

H. Right to Object to the Employer's Witnesses and Documents

You have the right to object to your employer's witnesses and documents. Usually, you will need the help of an attorney for these objections.

I. Right to Testify and Present Your Case

You have the right to testify at your hearing. The judge and the employer's attorney may ask you questions. If you do not understand a question, let the judge know. Be polite and respectful. Refer to the judge as "judge."

At the end of the hearing you can make a statement to the judge that explains your case. Prepare what you want to say before the hearing. Keep it short and simple. Explain the facts that are important to the issues.

J. Right to be Represented

You have the right to have a person represent you. If the person charges for his or her services, the person must be an attorney or supervised by an attorney. A list of organizations that can help you is on pages 36-38 of this guide.

K. Right to Ask for a Different Judge

If you want another judge, you can ask DES to assign another judge to your case. You must put your request in writing and submit the request at least **5 days** before the hearing.

L. Right to a Written Decision

After the hearing, you will get a written decision in the mail. This decision is called “Decision of Appeal Tribunal.” The decision will tell you whether the judge decided in your favor. The decision will explain the law and facts that the judge used to make the decision.

Relevant state laws and rules: Arizona Revised Statutes sections 23-671 to 23-683; Arizona Administrative Code sections R6-3-1502 to R6-3-1505.

4. What If You Miss the Hearing?

If you do not call in for the hearing or attend the hearing in person, the judge may rule against you. If this happens, you can request that the judge “reopen” the hearing. Your request must be filed within **15 days** of the date of the mailing of the judge’s decision. You must have a good reason for missing the hearing. The judge will have a hearing to decide if you had good cause for missing the first hearing. If the judge finds good cause, the first hearing is reopened.

Relevant state laws and rules: Arizona Administrative Code section R6-3-1503(B)(3).

5. What If You Lose at the Hearing?

If you lose at the hearing, you have the right to appeal to the Appeals Board. The judge's decision will explain how to appeal. This appeal is called a "petition for review." A petition form is included with the decision. You have **15 days** from the date DES mailed you the decision to file the appeal. The Appeals Board rarely has a hearing. It listens to the hearing transcript and looks at any exhibits submitted for the hearing. The Appeals Board will send you a written decision.

If you lose, you have **30 days** from the date the Appeals Board mailed you the decision to ask for a second review by the Appeals Board. Your request for a second review is called a "request for review." The Appeals Board will send you a written decision on your request for review. If you lose, you have **30 days** to file an appeal to the Arizona Court of Appeals. This appeal is called an "application for appeal." The Appeals Board's decision will tell you how to file an application for appeal. The Court of Appeals decides whether to accept the appeal. The Court does not have to review your case.

Relevant state laws and rules: Arizona Revised Statute sections 23-672 to 23-674; Arizona Administrative Code section R6-3-1504.

6. What If You Win at the Hearing?

If you win at the hearing, the employer has the right to file an appeal to the Appeals Board. If the employer files an appeal, you can file a statement telling why the hearing decision was correct.

Relevant state laws and rules: Arizona Revised Statute sections 23-672 to 23-674; Arizona Administrative Code section R6-3-1504.

VII. WEEKLY REPORTING REQUIREMENTS

1. What Weekly Reporting Is Required?

Once you file for unemployment insurance benefits, you must report every week to DES. The report is called your "weekly certification." DES looks at your

weekly report to make sure that you are unemployed during the specific week and you are eligible to get benefits. Even if you have not started to receive benefits, you must file a weekly claim. Once you are found eligible, DES will pay you the benefits due for the past weeks. All claims for benefits are for the calendar week right before your report. A calendar week is the period of 7 days beginning Sunday at 12:01 a.m. and ending the following Saturday at 12:00 midnight. You can file a weekly report to DES by telephone, on-line or in person.

- **By Telephone.** You can file your weekly claim by telephone. In Maricopa County, the number is (602) 417-3800. In Pima County, the number is (520) 884-8477. Outside of Maricopa and Pima counties, the number is (877) 766-8477. For TTY, the number is (877) 877-6226. These are different telephone numbers from the numbers you call when you are applying for benefits. The Telephone Information and Payment System (TIPS) is the telephone method used in Arizona for filing weekly claims. It is an interactive voice response system, which means that it asks you a question and you answer by pressing a button. You must have a touch-tone telephone to use the system. The TIPS system is open 24 hours a day, 7 days a week.

The TIPS system gives you 4 options when you call. You want option 1 to file your weekly claim. You will be asked "yes" or "no" questions. To answer "yes," press 1. To answer "no," press 9. If you want to hear the question again, press the # sign. It is important to wait until you hear the entire question before you answer.

Remember that the questions are only about the specific reporting week. You should be ready to answer these questions about that week:

1. Were you able to work and available for work each regular workday?
2. Did you look for work?

3. Did you refuse any job offer or referral to work?
4. Did you work or earn any money? If yes,
 - a. What were your gross earnings before deductions?
 - b. Are you still working?
 - c. Did you stop working because of lack of work or a reduction in force?
5. Have you returned to full-time work and will not need to file any further weekly claims at this time?

It is important to report all full or part-time work and earnings to DES. You must report the total amount you earned before deductions. You report the earnings for the week in which you did the work.

The TIPS system asks you to verify that your answers are true. You must answer "yes" to this statement before your weekly claim is filed. If you hang up or get cut off before your verification is finished, be sure to call again to file your claim.

After you answer all the questions, DES will tell you if it has any questions about your eligibility for that week and what steps you need to take.

- **On-line.** You also can file your weekly claim on-line at the DES website, www.azui.com. Click "File Your Weekly Claim Online" and then follow the directions. You will be asked the same questions that are asked over the phone, and you need to verify your answers. Be sure that your answers are correct before submitting your claim. If you do not have access to a computer, you can use the computers free of charge at a DES One-Stop Center, DES Employment Services Office or a local public library.

- **In person.** You can file your weekly claim in person at the DES offices in San Luis and Somerton.

2. What If You Do Not File Your Weekly Report?

If you miss filing a weekly claim, your benefits may be delayed. It is important that you file your claim as soon as you realize you did not file the weekly claim. You can file the report for up to 2 missed weeks on-line. You also can call the Unemployment Insurance Call Center. You get any delayed benefits once you finish your weekly claims for the missed weeks.

Tips: Always let DES know if you change your address. You can let them know by either calling the Call Center or reporting on-line. Also, all the information you give DES must be correct. It is a crime to knowingly making a false statement to get more benefits.

Relevant state laws and rules: Arizona Administrative Code section R6-3-5475 (G-H).

3. What If You Work?

If you work during your benefit year, your weekly earnings may impact your unemployment benefits. It depends on how much you earn.

If you have weekly earnings equal to or greater than your weekly unemployment benefit amount, you will not get benefits for that week.

If you earn less than \$30.50 in a week, your unemployment benefits for that week will not change.

If you earn more than \$30.50 in a week but less than your unemployment benefit amount, your benefits will be reduced by the amount of your earnings minus \$30.00. In other words, the first \$30.00 of your earnings will not be taken from your benefits. For example, if your weekly benefit is \$200 and you earn

\$100 one week, only \$70 of your earnings will be deducted from your benefits. You will receive \$130 in unemployment benefits for that week.

Relevant state laws and rules: Arizona Revised Statutes section 23-779(c).

VIII. OVERPAYMENTS

1. What Is an Overpayment?

An overpayment is when you get benefits you are not entitled to receive. You will get a notice if DES believes you got an overpayment. In most cases, DES asks you to repay the overpayment. The following are common reasons for overpayments:

- **Overpayments Due to Losing Your Appeal.** If you got benefits while your last employer appealed your eligibility, and your employer wins at the hearing, you may have to pay back the benefits you got during the appeal.
- **Overpayments Due to a DES Mistake.** Sometimes an overpayment is the result of a mistake by DES.
- **Overpayments Due to a False Statement.** If you made a false statement to DES on your claim or your weekly certification, you may have gotten benefits you were not entitled to get.

Relevant state laws and rules: Arizona Revised Statute section 23-787; Arizona Administrative Code sections R6-3-1812 to R6-3-1813, R6-3-54340.

2. Can an Overpayment Be Waived?

You can ask DES to waive an overpayment. If DES gives you a waiver, you do not have to pay back the overpayment. DES may waive all or part of the overpayment if: (1) the overpayment was not your fault and (2) repayment of the overpayment would be "against equity and good conscience." This means that it is not fair for you to repay the overpayment because you were not at fault and do not have the financial resources to pay back the benefits. DES has a form, UB 092, that you can use to ask for a waiver of an overpayment. This form asks

questions about your financial situation. If DES denies the waiver, you can appeal the denial. The appeal process is the same as when you are denied benefits. See pages 23-26 of this guide for information on appeals.

Relevant state laws and rules: Arizona Revised Statute section 23-787; Arizona Administrative Code sections R6-3-1812 to R6-3-1813, R6-3-54340.

3. How Do You Repay an Overpayment?

If the overpayment was not your fault, and DES does not give you a waiver, your weekly unemployment insurance benefits may be reduced up to 25% until the overpayment is repaid. However, if the overpayment is more than a year old, your weekly benefits may be reduced up to 50%.

If the overpayment is due to fraud, DES will keep 100% of your weekly unemployment benefits until the overpayment is paid in full.

Relevant state laws and rules. Arizona Revised Statute section 23-787; Arizona Administrative Code sections R6-3-1812 to R6-3-1813, R6-3-54340.

IX. LEGAL ORGANIZATIONS THAT HELP WITH UNEMPLOYMENT INSURANCE CLAIMS

1. Programs that Do Not Charge a Fee

To find the legal services office in your area, you can call the Arizona Statewide Legal Services Information and Referral line at (866) 637-5341.

Community Legal Services

Phoenix Office
305 S. 2nd Ave.
Phoenix, AZ 85003
(602) 258-3434 or (800) 852-9075

Prescott Office
401 N. Mount Vernon
Prescott, AZ 86301
(928) 445-9240 or (800) 233-5114

Mesa Office
20 W. 1st Street, Suite 101
Mesa, AZ 85201
(480) 833-1442 or (800) 896-3631

San Luis Office
845 E. B St., Suite 2
San Luis, AZ 85349
(928) 627-8023 or (800) 356-7115

Kingman Office
1720 Beverly, Suite A
Kingman, AZ 86409
(928) 681-1177 or (800) 255-9031

Yuma Office
201 S. 1st Ave.
Yuma, AZ 85364-2250
(928) 782-7511 or (800) 424-7962

DNA People's Legal Services

Window Rock Central Office
P.O. Box 306
Window Rock, AZ 86515
(928) 871-4151 or (800) 789-5824

Hopi DNA Office
P.O. Box 558
Keams Canyon, AZ 86034
(928) 738-2251 or (800) 789-9586

Chinle DNA Office
P.O. Box 767
Chinle, AZ 86503
(928) 674-5242 or (800) 789-7598

Tuba City DNA Office
P. O. Box 765
Tuba City, AZ 86045
(928) 283-5265 or (800) 789-8919

Flagstaff DNA Office
2323 E. Greenlaw Ln., Suite 1
Flagstaff, AZ 86004
(928) 774-0653 or (800) 789-5781

Southern Arizona Legal Aid

Pima County
2343 E. Broadway Blvd., Suite 200
Tucson, AZ 85719
(520) 623-9465 or (800) 640-9465
New client line: (520) 623-9461 or
(800) 248- 6789

Tohono O'odham Legal Services
2343 E. Broadway Blvd., Suite 200
Tucson, AZ 85719
(520) 623-9465 or (800) 640-9465

Santa Cruz County
Southern Arizona Legal Aid
2343 E. Broadway Blvd., Suite 200
Tucson, Arizona 85719
(520) 287-9441
New client line: (800) 248-6789

Four Rivers Indian Legal Services
403 Seed Farm Road, P.O. Box 68
Sacaton, AZ 85147
(520) 562-3369 or (866) 312-2290

Pinal County
766 N. Park
Casa Grande, AZ 85122
(520) 316-8076 or (877) 718-8086

Cochise/Graham/Greenlee Counties
2 Copper Queen Plaza, Upstairs
P.O. Box AL
Bisbee, AZ 85603
(520) 432-1639 or (800) 231-7106

White Mountain Apache Legal
Services
P. O. Box 1030
Whiteriver, AZ 85941
(928) 338-4845 or (866) 312-2291

Gila/Navajo/Apache Counties
5658 Highway 260, Suite 15
Lakeside, AZ 85929
(928) 537-8383 or (800) 658-7958

Arizona State University Civil Justice Clinic

Sandra Day O'Connor College of Law
P.O. Box 877906, Tempe, AZ 85287
(480) 965-6968

2. Reduced-Fee Program

Arizona Modest Means Program
(866) 637-5341