

Employment Training Series Week #1: Employment Benefits & Social Security

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DRC Logo Employment Training Series: Employment Benefits & Social Security, presented by Steve Haas, Director of Human Rights and Josh Davidson, Attorney

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Our Mission as an Organization

Disability Rights California advocates, educates, investigates, and litigates to advance the rights, dignity, equal opportunities, and choices for all people with disabilities.

Photo: Photo of a boy with a disability in a wheelchair. His young sister is kneeling next to him holding his hand.

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COVID-19 Employment Benefits

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Unemployment Insurance (UI)

The California Employment Development Department (EDD) provides support to people who have lost their jobs. Support is also available for those who have had hours reduced due to the impacts of COVID-19.

The purpose of this training is to make you aware of benefits provided due to the pandemic. For advice on Unemployment, contact the Employment Development Department at any of these numbers:

- English 1-800-300-5616
- Spanish 1-800-326-8937

- Cantonese 1-800-547-3506
- Mandarin 1-866-303-0706
- Vietnamese 1-800-547-2058
- TTY 1-800-815-9387

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Regular Unemployment Eligibility

You must have earned enough wages in the last 12 months to be eligible. You must also be:

- Totally or partially unemployed.
 - Includes not being able to work due to quarantine
 - Includes not being able to work from home
- Unemployed through no fault of your own.
- Physically able to work.
- Available for work
- Ready and willing to accept work immediately.
- Actively looking for work.

Your weekly benefit amount ranges from \$40 to \$450. You can use this website to get an estimate of your benefit: UI Benefit Calculator link: <https://www.edd.ca.gov/Unemployment/UI-Calculator.htm>.

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Expanded Unemployment Benefits

A new federal program helps some who are not usually eligible for unemployment benefits. This includes business owners, self-employed, and independent contractors. The EDD is still building this program. Once operational it will include:

- Up to 39 weeks of benefits starting with weeks of unemployment through December 31, 2020.
- \$600 added to the weekly benefit amount you would receive. This extra amount is only available for unemployment between March 29 and July 31.

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Helpful Links

COVID-19 & Unemployment FAQs

https://www.edd.ca.gov/about_edd/coronavirus-2019/faqs.htm#UIBenefits

Filing and Unemployment Claim

https://www.edd.ca.gov/Unemployment/Filing_a_Claim.htm

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Families First Coronavirus Response Act

The Families First Coronavirus Response Act (FFCRA or Act) requires employers to provide paid leave for specified reasons related to COVID-19. These options will apply from April 1, 2020 through December 31, 2020.

The purpose of this training is to make you aware of federal benefits provided due to the pandemic. Employers have options about how they implement them. It's important that you talk with your employer about your specific situation.

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Qualifying Reasons For Leave Related To Covid-19

An employee can take leave if the employee is unable to work, including unable to work from home, because the employee:

1. Is subject to an official quarantine or isolation order
2. Has been advised by a health care provider to self-quarantine
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual described in reasons (1) or (2) above;
5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable)

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Paid Leave Entitlements

The Act provides additional leave in two parts. In all cases, payment of wages is made by the employer. The employer receives a tax credit in return.

The first part, paid sick leave, provides 80 hours of paid time off. This leave is for the employee's care of self or a family member. The Act will provide a tax credit for the employer for 100% of the employee's wages when the leave is for the employee's illness. This amount is limited to \$510 a day. If the time off is for the care of a family member, it provides a tax credit of 2/3 of the employee's wages. This amount is limited to \$200 a day.

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Paid Leave Entitlements (cont.)

Paid sick leave must be taken in full day increments for reasons 1-4 above. For reason 5 it can be taken in full days or partial days, in any amount agreed upon by the employee and supervisor.

The second part of the act is paid expanded family medical leave. It provides an additional 10 weeks leave. This leave is for the care of children at home due to daycare or school closures. The Act provides the employer a tax credit of 2/3 of the employee's wages. This amount is limited to \$200 a day. The most that will be paid under this leave is \$10,000.

It can be taken in full day or partial day increments. It can be in any amount that is agreed upon by the employee and their supervisor.

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Helpful Link

FFCRA Frequently Asked Questions – Department of Labor
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

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Social Security Reinstatement

Produced at U.S. tax payer expense

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What Is Expedited Reinstatement?

Your Social Security Disability Insurance or Supplemental Security Income benefits ended because of your income from work within the past 5 years

AND your need benefits again because your disability or blindness makes it too hard to work

Expedited reinstatement is a fast way to get benefits again without a new application.

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Do I Qualify For Expedited Reinstatement?

1. You received Social Security Disability Insurance, Child Disability Benefits Disabled Widow(er)'s, or Supplemental Security Income
2. Social Security letter told you your benefits ended because your earnings from work showed you can do substantial gainful activity. Or, Supplemental Security Income benefits ended because of too much earned and unearned income.
3. You are not working or your work is not substantial gainful activity

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Do I Qualify For Expedited Reinstatement?

4. Your benefits ended within the past 5 years

If it's been longer than 5 years since your benefits ended you can still request reinstatement but you will have to have to show Social Security why you have a good cause for requesting reinstatement after 5 years

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Do I Qualify For Expedited Reinstatement?

5. You have the same medical condition or your condition is like the condition you had when you were approved for benefits
6. You are unable to work enough to show you can do substantial gainful activity because of your medical condition
7. For expedited reinstatement of Supplemental Security Income your income and resources must be below the allowed limit

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How To Apply For Expedited Reinstatement

Complete the application forms and send to the closest Social Security office. Or, use your personal Social Security account to send it to Social Security over the Internet.

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How To Apply For Expedited Reinstatement

You can wait for Social Security to send you the forms, or you can get them from the Internet.

SSA-371-Request for Reinstatement-Title II. This form is available at:

<https://www.ssdfacts.com/forms/SSA-371.pdf>

SSA-372-Request for Reinstatement-Title XVI. This form is available at:

<https://www.ssdfacts.com/forms/SSA-372.pdf>

SSA-827 Authorization to Disclose Information to SSA

<https://www.ssa.gov/forms/ssa-827.pdf>

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How To Apply For Expedited Reinstatement

Social Security offices are taking request for reinstatement, although offices are closed to the public during Coronavirus crisis. Mail your completed request for reinstatement form to the Social Security office.

Or, create a personal Social Security account and submit your request for reconsideration through the Social Security website. To create MySSA account go to <https://www.ssa.gov/myaccount/create.html>

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The Expedited Reinstatement Interview

- Social Security will call you with questions to see if you are eligible for expedited reinstatement and talk about filing a new claim for benefits instead of expedited reinstatement.
- It's a good idea to decide before the interview if you want to file a new application or request expedited reinstatement. You can also do both. The next slide compared expedited reinstatement to a new application.

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EXPEDITED REINSTATEMENT

- You get 6 months provisional payments and health care while your request is reviewed.
- More likely to pass disability test. Must use paper form SSA-3367 for expedited reinstatement claims. Cannot use electronic EDCS-3367 Disability Report.
- SSDI-Cannot do substantial gainful work in the month you apply, SSI-cannot have earned or unearned income or resources over the allowed limit.
- SSDI-Extended Medicare could be lost if expedited reinstatement is denied.

NEW APPLICATION

- SSDI-payments begin 5 months after you apply. SSI-payments begin the month after you apply
- Less likely to pass disability test. Must use electronic EDCS-3367 Disability Report. Cannot use paper form SSA-3367.
- SSDI-Cannot do substantial gainful work in the month you apply and during the next 5 months. SSI-Cannot have earned or unearned income or resources over the allowed limit.
- SSDI-Extended Medicare continues if new application is denied.

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How Will Social Security Decide If I Am Disabled?

Social Security uses a medical improvement review standard to decide if you qualify for expedited reinstatement based on your disability. The advantage of using the medical improvement review standard is that Social Security will generally find that you are disabled unless there has been a decrease in the severity of your impairment(s) and your functional capacity now is unimpaired because you now have no limitations on your ability to perform basic work activities.

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How Will Social Security Decide If I Am Disabled?

It is not necessary to do a continuing disability review when you apply for expedited reinstatement if your medical condition is considered permanent AND your medical condition is the same or related to the condition that allowed you to get benefits before Social Security refers to these as MINE (medical improvement not expected) cases

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How Does Work Affect Expedited Reinstatement?

You can still be eligible for EXR if you are working but the hours you are able to work and earnings are lower because of your disability or blindness. Social Security looks at your work to determine if you are performing Substantial Gainful Activity (SGA) when it receives your request. Social Security looks at net earnings if you are self-employed.

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How Does Work Affect Expedited Reinstatement?

In 2020, if you are working, disabled, and your countable earnings (gross wages less deductions for Impairment-Related Work Expenses or subsidies and special conditions) are below the \$1260 SGA amount, you

would be eligible for expedited reinstatement because your disability limits you from being able to work and perform substantial gainful activity (SGA).

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How Does Self-Employment Affect Expedited Reinstatement?

If you are self-employed Social Security uses your average net earnings from self-employment to determine if you are performing SGA. In 2020, you would be unable to perform SGA if your average net earnings from self-employment are less than \$1260. This means you could be eligible for expedited reinstatement so long as your SSDI ended because you performed SGA, you apply within 60 months, and your current impairment(s) is the same as or related to the impairment (s) that allowed you to get benefits before.

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Reasons For Denying Expedited Reinstatement

Social Security may deny your request for expedited reinstatement for any of the following reasons:

- Your benefits terminated for reasons other than because you performed substantial gainful activity, for example, after a continuing disability review determined you are not medically eligible for benefits;
- In the month you apply for expedited reinstatement, your work activity shows you can perform substantial gainful activity;
- You do not meet the disability requirement; or
- You waited more than 5 years after SSDI benefits ended due to work to request EXR, or Social Security decides you did not have good cause to request EXR after the deadline.

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How to Get DRC Services

Intake line: (800) 776-5746

www.disabilityrightsca.org

Photo: Person reading braille