

## Can I get my job back or sue my employer for damages?

Most of the time, there is nothing you can do to get your job back because Georgia is an “at-will” employment state. That means your employer is allowed to fire you for almost any reason. However, you may have the right to appeal your firing if you are a member of a union, work under a merit system for a governmental agency, or have other appeal rights given by your employer. This brochure does not cover these rights.

## What if I was fired or was forced to leave because of discrimination?

If you are fired or leave your job because of **discrimination based upon your race, color, national origin, sex, religion, age (40 and older), pregnancy, or disability** you may be able to bring a claim against your former employer. If you believe discrimination was the basis for your job loss, you must file a “charge” or complaint of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC). **You must file the complaint within 180 days of the firing or other incident.** You cannot go to court later if you have not filed a complaint with the EEOC. To file a charge, contact the EEOC at the following address and number or through their website, [www.eeoc.gov](http://www.eeoc.gov):

Equal Employment Opportunity Commission  
Atlanta District Office  
Sam Nunn Atlanta Federal Center  
100 Alabama Street, Suite 4R30  
Atlanta, GA 30303  
(404) 562-6800  
Toll free: 1-800-669-4000

If you were fired or leave your job with an employer with four to fourteen employees because of **discrimination based on your national origin**, you may be able to bring a claim against your former employer. Some examples of national origin discrimination are being treated differently because of your place of birth, country of origin, ancestry,

# If You Lose Your Job

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native language, or accent. If you believe this type of discrimination was the basis of your job loss, you must file a “charge” or complaint of discrimination with the Office of Special Counsel (OSC). **You must file the complaint within 180 days of the firing or other incident.** To file a charge, contact OSC at the following address or number or through its website, [www.justice.gov/crt/osc](http://www.justice.gov/crt/osc):

Office of Special Counsel for Immigration-Related Unfair Employment Practices  
Civil Rights Division  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
Toll free: 1-800-255-7688 (worker hotline)

## What benefits are available to me after I lose my job?

### Unemployment Compensation

Apply for unemployment benefits at the nearest office of the Georgia Department of Labor. You can find a list of offices at [www.dol.state.ga.us](http://www.dol.state.ga.us) or by calling (404) 232-4490 (in Atlanta) or toll free 1(866)873-5676. You will need to have your Social Security number with you in order to apply, proof of your immigration status if you are not a U.S. citizen, and the separation notice or letter, if one was given to you. You should apply as soon as possible after you lose the job. Benefits can only be paid after you file an application. You must be unemployed (or on an unpaid suspension) when you apply. In order to qualify for benefits, you must have worked and earned enough wages during the past year and a half (base period). Unemployment benefits are paid weekly. The amount that

you can expect to receive can be as little as \$49.00 and as much as \$330.00 per week, based upon your wages during the base period. For every week that you claim unemployment benefits, you must certify that you are able to work, actively seeking work and available for work. If you are physically unable to work, on a leave of absence at your own request, or on vacation, you will not be able to receive unemployment benefits. If you have worked part-time during most of the base period, you are allowed to seek similar part-time work, but otherwise you must be available for and seeking full-time work.

### **If Unemployment Benefits Are Denied**

If the first decision of the Department of Labor (Claim Determination) is that your claim is denied, you have the right to appeal and have a hearing before an administrative hearing officer (AHO). You must appeal the Claim Determination within 15 days of when it was released or mailed to you. The deadline for appeal is given at the bottom of the Claim Determination. As soon as you receive the Claim Determination, be sure to note the deadline. You can appeal at the Department of Labor in person, by mail, by fax or by email. Follow the directions on the Claim Determination. It is recommended that you request an in-person hearing rather than accepting a telephone hearing. After you appeal, it will take a few weeks before the hearing is scheduled. Remember to keep reporting to the Department of Labor each week that you are able to work, available for work and actively seeking work, even if you are not yet receiving benefits or your case is on appeal.

## At the Appeal Hearing

At the appeal hearing you will have the right to tell your story, and to present witnesses and evidence. You can be represented by a person of your choice in the hearing, including an attorney or paralegal. If you represent yourself, be sure to take all documents that will prove your case. If you need to subpoena witnesses or documents from the employer, you can request a subpoena from the Appeals Unit. Written statements from witnesses are not allowed. If there are witnesses with personal knowledge of what happened, you should ask for a subpoena to require them to appear at the hearing. The hearing is your only chance to present evidence about your case. Make a list of the points that you want to cover and use the list during the hearing to help you remember. The DOL’s official Rules may be found at [www.dol.state.ga.us](http://www.dol.state.ga.us).

**If you were fired**, you should receive benefits unless the employer proves that it was your fault that you lost your job. The hearing officer will consider whether you broke a workplace rule and whether you could reasonably have expected to be fired for your actions. Unless you intentionally disregarded the employer’s policies or consciously neglected to perform your duties, you should not be disqualified from receiving benefits. If you were fired because you were absent from work because of your illness or a family member’s illness, and you properly notified the employer about your absence, you should be eligible. If there was some good reason (hospitalization after a serious accident) why you could not notify the employer, you should be eligible. If you were fired because of child care or transportation problems, you may not be eligible, but should file an appeal and seek the opinion of an attorney about your particular circumstances.

**If you quit your job**, you will be required to show that you had good work-connected cause for doing so. You should be eligible to receive benefits if you quit because of a medical condition that was caused or made worse by the job. You must have given the employer a chance to change your duties to help with the problem. If you were harassed on the job or your job duties were changed significantly, or if you were not paid or given benefits as promised, you should be eligible to receive benefits.

### **After the Hearing**

The hearing officer will issue a written decision a few days after the hearing. In the decision, the AHO will make findings of fact and give reasons for the decision. He or she will either agree with the Claim Determination or will reverse that decision. If you win your hearing, you will be paid benefits for all of the weeks that you reported to the Department of Labor. If you do not receive the hearing decision within a week after the hearing, call the Department of Labor to find out if it has been sent to you.

### **Further Appeals**

If the hearing officer's decision is not in your favor, you can file an appeal to the Department of Labor's Board of Review. You must appeal to the Board of Review within 15 days of the date on which the hearing officer's decision is released or mailed to you. The deadline is given at the end of the decision. As soon as you receive the decision, make a note of the deadline. The Board of Review will look at all of the documents in your file and will have access to the tape recording of your hearing. The parties are not allowed to present new evidence. You can ask the Board of Review to prepare a transcript of the hearing. You should not be charged for a copy if your household is not able to pay without hardship. You can ask the Board of Review for more time to file a written argument so

that you will have a chance to review the transcript. You can hire an attorney or ask GLSP to take your case. As soon as you receive an unfavorable hearing decision, you should start to look for a representative, if you did not have one at the hearing. If the Board of Review still denies you benefits, you have a right to appeal to the superior court in the county in which you worked. It is best to get an attorney to help you do this. In order to preserve your rights, you may need to file a case on your own. You can find forms and instructions at [www.legalaid-ga.org](http://www.legalaid-ga.org).

### **Employer Appeals**

If your claim for unemployment benefits is granted at first or after the hearing, the employer will have the same appeal rights that you have. However, the Department of Labor will pay your benefits until there is a decision in the employer's favor, which may not happen. If you would like your case to be considered by Georgia Legal Services Program (GLSP), contact the office nearest to you as soon as possible after you receive the first decision, appeal that decision or receive notice that the employer has appealed. There is a list of offices at [www.glsp.org](http://www.glsp.org) or you may call 1(800)498-9469.

### **Health Insurance and Other Benefits**

If you were covered by health insurance, you have a right to continue the same coverage by paying the fees or premiums directly to the insurance company. Employers must notify plan administrators within 30 days of discharging you. The insurance company must send a "COBRA" notice about your right to continue coverage within 14 days after being notified by the employer. You will have 60 days to decide whether to continue coverage. In most cases, the premium will be much higher than what you were paying while employed. The reason is that the employer is no longer paying a portion of the premium.

The first payment on the plan will not be due until 45 days after you choose to continue coverage. Depending upon your household income, you may qualify for the **Medicaid** program, which provides free health insurance to low-income families. You can apply for Medicaid at your local Department of Family and Children Services office. Children in the household may also be eligible for **Peachcare**, insurance for children who do not have other health coverage. You can receive information about Peachcare at [www.peachcare.org](http://www.peachcare.org) or by calling 1(877)427-GA PEACH or 1(877)427-3224.

### **SNAP (Supplemental Nutrition Assistance Program, formerly called Food Stamps)**

Another program that may help you following your job loss is the SNAP (Food Stamp) program, which provides help with buying food. You can apply for this benefit at your local Department of Family and Children Services office or online at [www.compass.ga.gov](http://www.compass.ga.gov) (works best with Internet Explorer version 5.5 or higher).

### **TANF (Temporary Assistance to Needy Families)**

If there are dependent children in your household, you may also qualify for a small monthly check, commonly known as welfare. Apply at the Department of Family and Children Services (DFCS). The information in this brochure is intended only as information and does not constitute legal advice. Anyone seeking specific legal advice should contact an attorney. This information was created by the Georgia Legal Services Program®.

**Georgia Legal Services Program®**

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**IF YOU  
LOSE YOUR  
JOB**