

# FACT SHEET

**WWW.JOBS.STATE.NM.US**

Fast, convenient, and secure.

Apply for unemployment benefits online.

## Able, Available, and Actively Seeking Work

**1-877-664-6984 TOLL-FREE**

Apply for unemployment benefits by phone  
Monday–Friday, 7:00am–5:00pm.



It is a federal requirement that you must be **able** and **available** to accept suitable work in order to qualify for unemployment benefits.

### What does it mean to be able to work?

You must be physically and mentally able to work and accept full-time or part-time work for at least 20 hours per week. If you are ill, injured, on a leave of absence, or unable to work for any other reason, you may not be considered able and may not be eligible for benefits for that period of time.

Examples of reasons you may not be able to accept work include, but are not limited to:

- Out of country travel
- Hospitalization
- Loss of childcare
- Illness
- Incarceration
- Loss of transportation
- Injury
- School attendance

You may be required to provide evidence of your ability to work, such as a doctor's note.

### What does it mean to be available for work?

You must be available for work in order to receive Unemployment Insurance (UI) benefits. You will be considered available for work, if your unemployment is related to COVID-19, so long as you are taking all necessary steps to return to work for your regular employer and/or have not withdrawn from the labor market. Your eligibility is not impaired when you are physically unable to work, or engaged in activities which would prevent you from working, provided the time period is not more than two full calendar days AND the inability or activities do not reduce or risk your chances for employment.

The following are not valid reasons to refuse an offer of suitable work, including but not limited to:

- Placing unreasonable restrictions on the hours you will work, for example:
  - Applying for a full-time job and then telling the employer you cannot work full-time or part-time of at least 20 hours per week
  - Applying for a job with evening hours and then telling the employer you can only work mornings
- The wage you will accept, for example:
  - Applying for a job that pays \$12-\$15 per hour and then telling the employer that you won't work for less than \$25 per hour
- The distance you will travel to work, for example:
  - Applying for a job that is 40 miles away from your home and then telling the employer that it is too far for you to commute

If your employer is holding your job while you are on a Leave of Absence or on approved family leave under the Medical Leave Act of 1993, you will not be considered available for work.

### What does it mean to be actively seeking work?

When a work search waiver is not in place, you must be actively looking for full-time or part-time work of at least 20 hours per week. You are required to make a minimum of two different work search contacts every week to qualify for benefits. If you complete two different work searches each week you certify, you will be considered to be actively looking for work. If you attend and complete one of the workshops offered by either the New Mexico Department of Workforce Solutions or a New Mexico Workforce Connection Center, you can count this as one of your two work searches for the week. You can also complete two searches for the week with the same employer if you apply for two different positions.

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Any reason that stops you from actively looking for work must be reported.

## Exceptions to being able/available/actively seeking work

### **Waiver of Work Search**

If the department waives your work search for any reason, you will not be required to complete two work searches for the week and will not be asked if you are actively seeking work on your weekly certification.

### **Jury Duty**

You will be considered able/available/actively seeking work when you are serving as a juror. Payment received for this service is not considered wages and does not need to be reported on your weekly certification. You are required to provide the summons in order to document that you are able/available.

## Weekly certification

When you complete your weekly certification, answer **YES** when asked if you are able and available **IF**:

- You were physically able to do your work before you lost your job (and you lost your job/hours due to your own COVID-19 illness, your need to care for a family/household member with COVID-19, or your employment situation changed because of the COVID-19 public health emergency); **OR**
- You are out of work temporarily due to an employer-closure related to COVID-19 and expect to return to your job; **OR**
- You are able and available to work at least 20 hours per week – this includes any type of work for which you are qualified, including virtual (telework) and/or a job with flexible hours; **OR**
- You are able and available for work if you are still currently working reduced hours.