

# I lost my job. Does my employer still owe me anything? Do I owe them anything?

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❖ Read this only if you live in the state of Washington.

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## Should I read this?

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❖ Some employees are “fired.” Others are “discharged,” “terminated,” or “laid off.”

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This will help you understand

- if your employer owes you anything
- if you owe your employer anything
- how to assert your rights

## I lost my job. What should I do first?

**Know why they let you go.** To find out why, send your employer a dated, written request by certified mail. By law, your employer must respond within 10 days with a letter stating why they let you go.

**Talk to a lawyer,** if you can.

**Act fast.** Many employment laws have time limits. We call these “statutes of limitation.” Some are as short as a few months after losing your job. If you do not act in time, that law may no longer protect you.

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❖ A lawyer can help you figure out which time limits apply to you.

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## Does my employer owe me anything?

**Maybe.** They may owe you:

**One last paycheck** - Your employer must promptly pay you all wages or salary it owes you, including overtime. This is due on your regularly scheduled pay day. Depending on their policies, you may be entitled to a vacation and sick leave pay you built up while working there. It may be illegal for the employer to deduct from your final paycheck for amounts you may owe.

**COBRA** - If you took part in the employer's medical plan, the federal COBRA Act generally lets you keep that coverage for at least eighteen months. The employer must tell you about this option. You must choose to keep coverage under COBRA within 60 days of losing your job. You generally pay the full cost of the premium, plus two percent.

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- ❖ Contact your employer right away if you do not get what you need to sign up for COBRA coverage when you lose your job. You must meet the time requirements set by COBRA **and** the employer's medical plan.
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**HIPAA** - If you took part in the employer's medical plan, the plan usually must give you a certificate of health coverage after your job ends. You may need this certificate when you start a new job, to avoid health benefit restrictions there. Ask for this certificate right away after losing coverage under the old plan, when your COBRA coverage ends, or when you start a new job.

**Benefit Payments** - If you got medical care while employed, and your employer's medical plan covered it, the plan must reimburse you even though you are now unemployed. Follow the plan's procedures carefully. You must appeal any failure to pay benefits right away. Your summary plan description should help you understand your rights under the plan. If you do not have a copy of the summary plan description, ask the HR department for a copy right away.

**Severance Pay** - The employer may have had a severance pay program. Check your employment agreement, employee handbook or employer policy materials.

**Retirement Benefits** - If you took part in the employer’s retirement plans, you generally keep certain rights under those plans after termination. Check your summary plan description or contact the HR department.

**Contractual Obligations** - If you had an employment agreement, it may give you certain rights after your termination. Read it carefully. Make sure the employer is giving you everything the agreement says. Think about talking to a lawyer.

**References** - By law, your employer may not say things about you that are not true and cause you harm. It generally may not interfere with your new job search. Employers generally **can** share **truthful** information about you when asked for references.

## **Do I owe my employer anything?**

**Maybe.** It depends on your employment agreement or employer policies. You may owe –

- a period of time before you take a new job with a competitor, if you signed a non-competition agreement with your old employer;
- property or equipment the employer provided for your work;
- Other considerations that may appear in your contract.

**You do not** have to give up your right to sue your employer for wrongful termination. If the employer offers you extra benefits or severance pay in exchange for a “Release of Claims,” you do not have to sign.

**Preventing Further Damages:** If you do plan to sue for illegal termination, you may have to prove you have been looking for a new job. Make copies of résumés you send out. Keep a list of places you apply. Without proof, a court may award you less.

## **How can I enforce my rights?**

If you believe your employer violated your rights or illegally let you go, you may have to do these:

**Arbitration.** A neutral, third-party will make a decision instead of the court. The employer’s policy or your employment agreement may require arbitration.

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- ❖ Some types of arbitration clauses are not enforceable (they cannot make you do it) in Washington. Talk to a lawyer. Find out if you must, or should, arbitrate your termination issues.
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**A grievance procedure**, if there is a collective bargaining agreement. Talk with a union rep right away. Follow the procedure to avoid losing your rights. Make sure you understand it.

**If your claim involves illegal discrimination**, you can sue in state court at the same time you file complaints with state or federal government agencies.

These agencies can help:

- the [Washington State Human Rights Commission](#)
- the [United States Equal Employment Opportunity Commission](#) (“EEOC”)

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- ❖ **There are time limits for reporting discrimination**, once you have lost your job. Talk to a lawyer right away.
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## Should I talk to a lawyer?

**Maybe.** Even if you do not file a lawsuit, you should talk to an employment lawyer. It will help you understand your rights.

**If you are not getting information you need from the employer**, ask a lawyer for help. Then the employer may cooperate.

**Talk to a lawyer if you think the employer is giving incorrect or untrue information.** An employer may pretend they are letting you go for one reason. But they are actually letting you go for another. Without a lawyer’s help, it may be hard to get the facts to figure out if your employer violated your legal rights when it let you go.

## How can I find a lawyer?

Some local bar associations provide lawyer referrals. [How to Find a Lawyer](#) can also help.

## Where can I learn more?

**COBRA health insurance** - U.S. Department of Labor: Employee Benefits Administration: [www.dol.gov/general/topic/health-plans/cobra](http://www.dol.gov/general/topic/health-plans/cobra)

**Unemployment benefits** - [WashingtonLawHelp.org](http://WashingtonLawHelp.org) has printable resources and videos. Click on “Worker/farmworker rights,” then on “unemployment benefits.”

Washington State Employment Security Department: [esd.wa.gov/](http://esd.wa.gov/)

## Getting your last paycheck:

- Washington State Department of Labor and Industries Wage and Hour Division, (360) 902-5316; 1-866-219-7321; [www.lni.wa.gov/](http://www.lni.wa.gov/)
- Casa Latina Workers Defense Committee for low-income King County Workers, (206) 686-2613 or (206) 816-5824, weekdays 10 am – 6 pm

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❖ Legal Voice has more on employment issues at [www.legalvoice.org/tools-employment](http://www.legalvoice.org/tools-employment).

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## Get Legal Help

- **Apply online** with [CLEAR\\*Online](http://CLEAR*Online) - [nwjustice.org/apply-online](http://nwjustice.org/apply-online)
- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 2-1-1 (or toll-free 1-877-211-9274) weekdays 8:00 am - 6:00 pm. They will refer you to a legal aid provider.
- **Facing a legal issue outside of King County** (other than Eviction or Foreclosure)? Call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm or apply online at [nwjustice.org/apply-online](http://nwjustice.org/apply-online).
- **Facing Eviction?** Call 1-855-657-8387.
- **Facing Foreclosure?** Call 1-800-606-4819.

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- ❖ [Unemployment Law Project](#) provides legal representation at administrative hearings challenging your right to get unemployment benefits. They can advise at any stage of the appeals process. Call them at (206) 441-9178 or 1-888-441-9178.
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***Northwest Justice Project gratefully acknowledges the work of Legal Voice, whose original publication we largely adapted here.***

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