NATIONAL EMPLOYMENT LAW PROJECT

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Benefit Duration

This brief is part of the Unemployment Insurance Policy Hub created by the National Employment Law Project as a reference guide for state advocates to support efforts that will strengthen the economic security of workers and their families. For other Policy Hub resources, see www.uipolicyhub.org.

Unemployment Insurance (UI) Benefit Duration Definitions

Base Period: The period of time (generally one year) used to determine whether unemployed workers have earned sufficient wages or worked enough hours (or both) to qualify for UI benefits and what amount of UI benefits they should receive. A worker's base period is usually the first four of the last five completed quarters before the worker applied for UI benefits.

Benefit Exhaustion: When a worker claims all allotted weeks of benefit payments in their benefit year.

Benefit Year: The year after a worker establishes a claim for UI benefits and during which the worker must claim their allotted weeks of benefits. For example, if a worker is allotted 26 weeks of benefits, they can only claim those benefits within their benefit year—but they do not have to claim benefits in consecutive weeks.

Extended Benefits: A program available to workers who have exhausted regular UI benefits during periods of high unemployment. The basic program provides up to 13 additional weeks of benefits.

Maximum Duration: The longest potential period of time eligible workers can claim UI benefits in a state.

Weekly Benefit Amount: The amount of money that a worker is eligible to receive each week in UI benefits. This amount is set at the beginning of a claim and may be reduced each week depending on earnings for that week, if any.

Overview

When workers are put out of a job, unemployment insurance (UI) benefits should contribute to their economic security until they can find a new one. For decades, states set the maximum number of weeks that a worker could receive UI benefits to 26 weeks or more,

even though there were no federal standards requiring states to do so. Beginning in 2011, at the urging of business groups, some state legislatures began to reduce the maximum duration of benefits. In 2023, 14 states were providing fewer than 26 weeks in UI benefits. This race to the bottom paused at the start of the pandemic-induced recession but resumed in the 2021–2022 legislative sessions.

Reducing benefit duration is harmful in several ways. Because discrimination in hiring and other structural barriers make it more difficult for workers of color to find jobs, cutting benefit weeks has the worst impacts on Black, Latinx, and Native American workers. Cutting benefit duration also harms the economy, fails to help workers find jobs quickly, and results in a smaller proportion of unemployed workers receiving benefits.

Benefit duration basics

Although there is no federal law setting upper or lower limits on how many weeks of UI benefits states must provide, all states limit the number of weeks an unemployed worker can receive UI benefits. The limit on the number of weeks of UI benefits is known as the "maximum duration." Even if a worker remains unemployed, once they receive their allotted number of weeks, they are not allowed to receive further benefits until they are able to establish a new benefit year (which typically means going back to work for a period). During typical, non-recession periods, about two million workers receive UI benefits in an average week. Between 200,000 and 300,000 of these workers[1] reach the maximum duration of benefits without finding employment, exhausting their UI benefits.

Maximum duration is not the same as the actual duration of benefits. Maximum duration refers to the maximum number of weeks a worker can potentially claim UI benefits in a particular state, not the number of weeks that individual claimants will *receive* benefits. In all states, the maximum duration is only available to claimants who remain eligible and claim benefits for the entire potential duration of their claim. Even during times of recession, many workers find jobs before they receive benefits for the maximum number of weeks. For example, by the end of 2020, only 43 percent of claimants received their maximum weeks of benefits.[2]

Different methods for calculating maximum duration

Regardless of the maximum number of weeks that a state will provide UI benefits, states determine individual maximum durations for each worker who files a claim for benefits. That number of weeks and the weekly benefit amount determined at that time remain in place for the next year. States use two main methods to set the maximum duration for each claim:

- **Uniform duration method:** Ten states[3] allow every worker who is monetarily eligible for UI benefits to qualify for the state maximum duration if their joblessness lasts for the whole time. Again, this does not mean that all workers receive all the allotted weeks of benefits, only that those who maintain eligibility and cannot find jobs before exhausting a claim will receive the maximum number of weeks.

- **Variable duration method:** The other 43 states determine the potential benefit duration for each worker using a formula that bases the total benefit amount on a share of the worker's base period wages, most commonly one-third of the base period wages. The duration period is calculated by dividing this total benefit amount by the worker's weekly

benefit amount. In many cases, this method results in workers qualifying for less than the state's overall maximum duration. For example, workers in variable duration states who worked for less than a full year frequently do not have sufficient pre-layoff earnings to qualify for all available weeks of benefits.

Benefit duration norms

There are no federal laws setting benefit duration limits. Nonetheless, at the start of 2011, all 53 UI jurisdictions provided at least 26 weeks maximum of state benefits, and most states had done so since the 1950s. In the aftermath of the Great Recession, some states, including Michigan, Missouri, and North Carolina, began abandoning the 26-week norm at the urging of business groups. By 2020, only 42 of the 53 UI jurisdictions provided maximum duration of 26 weeks or more.[4] As of July 2023, there were 14 states with a maximum of fewer than 26 weeks.[5] Kentucky cut the maximum duration of benefits to just 12 weeks in 2022, only to reconsider the economic hardship being imposed and restored an additional 4 weeks of benefits in 2023, leaving workers with a still inadequate 16 weeks of UI benefits maximum.[6]

Recognizing that job searches can often be lengthy, two states set maximums longer than 26 weeks: Montana provides up to 28 weeks of UI and Massachusetts also provides more than 26 weeks when unemployment levels rise.

Extended benefits during economic downturns

It generally takes longer for workers to find a job when unemployment is high and there are few open positions for each jobseeker. In recognition of this reality, the extended benefits program provides up to 13 additional weeks of benefits when a state is experiencing high unemployment. Half of the program is funded by the federal government and half is funded by each state. However, the structure of the extended benefits program is flawed—extended benefits often fail to "trigger on" when unemployment rises, fail to add sufficient weeks of additional benefits, and often "trigger off" when unemployment rates remain high. Additionally, extended-benefits triggers often fail to account for high unemployment rates in particular regions of a state or communities. Because of these shortcomings, the federal government has created additional ad hoc programs to address benefit duration during recent national recessions. A full discussion of extended benefits is beyond the scope of this brief. See Section 4 of *Reforming Unemployment Insurance* for additional details and policy recommendations.

Cutting benefit duration based on the unemployment rate

Typically states set their maximum benefit duration in statute as a fixed number, with the extended benefits program potentially providing additional weeks of benefits during periods of especially high unemployment. Recently some states have used statewide unemployment rates to reduce the maximum duration. At first glance, using unemployment rates to determine benefit duration sounds appealing because workers would have more time to find employment when the unemployment rate is high and less time when jobs are more plentiful in the state. However, the practice often amounts to little more than a cut in the maximum number of UI weeks available.

One problem is that laws linking UI benefit duration to unemployment rates typically start with a number of benefit weeks that is already too low to allow many workers to find a new job and then reduce it even further. Another problem is that some groups or areas of the state may have dramatically higher unemployment rates than the statewide average. For

example, because of structural racism, Black workers often endure substantially higher unemployment rates than the statewide average.[7] Basing the maximum duration of benefits available on the statewide unemployment rate exacerbates inequities already experienced by people of color, people living in higher-populated communities, and people in underpaid jobs, particularly women of color. See NELP's *Slashing Unemployment Benefit Weeks on Jobless Rates Hurts Workers Of Color* for details on the perils of basing duration on the unemployment rate.

Federal Requirements and Guidance

There is no federal law designating a maximum (or minimum) duration of benefits. However, in 1962 the US Department of Labor (USDOL) recommended that states offer a maximum of at least 26 weeks if using a uniform duration formula or 30 weeks if using a variable duration formula. Two federal advisory bodies adopted 26 weeks of state benefits as a standard maximum duration for benefit payments in 1980 and 1995.[8]

Policy Recommendations

It takes time to find a new job, particularly for workers who face discrimination and structural barriers to employment due to race, ethnicity, disability, age, sexual orientation, and gender identity. To ensure all workers have sufficient time to find employment no matter where they live, the federal government should set standards to harmonize the maximum duration of benefits to at least 30 weeks. In the absence of federal action, states should:

1. **Set the maximum duration of UI benefits to 30 weeks.** Thirty weeks of benefits is more likely to support all workers until they can find quality jobs. A significant proportion of workers experience periods of unemployment longer than 27 weeks. This is especially true for older workers and workers of color, who experience structural barriers to reemployment. Thirty weeks of benefits is the current maximum duration in Massachusetts.

2. **Ensure a uniform maximum duration of benefits for all workers.** The amount of time it takes to find a job has nothing to do with how much money a worker was paid by their previous employer. Every worker who is monetarily eligible for UI benefits should qualify for the maximum benefit duration if their unemployment lasts for that amount of time. Eleven states, including Louisiana, New Hampshire, and West Virginia,[9] already ensure a uniform maximum duration of benefits.

Research Findings and Arguments to Support Reform

Slashing weeks disproportionately harms workers of color.

Disparities in duration of unemployment are the result of discrimination in hiring and other forms of structural racism. An analysis of the long-term unemployment rate in the United States by race and ethnicity during the economic peak prior to the pandemic shows that 26 percent of unemployed Black workers had been jobless for 27 weeks or longer, compared to 20 percent of unemployed white workers.[10] During that same period the average duration of unemployment for white workers was 20 weeks, compared to 26 weeks for Black workers.[11]

The same inequities continued during the pandemic downturn—in 2021, Black men were unemployed for 31.7 weeks on average, compared to 28.4 weeks for white men.[12] As a result, when policymakers reduce the maximum duration that workers can access UI benefits, they are likely to cause more harm to Black workers and other workers of color. State UI laws that base the maximum duration of benefits on a statewide unemployment rate also have a disparate negative impact on workers of color. For example, when Michigan enacted legislation to reduce maximum benefit weeks in 2011, the national average duration of unemployment was 27.0 weeks for Black workers and 27.7 weeks for Asian workers but only 19.7 weeks for white workers.[13] The Black unemployment rates in Detroit and Flint were 17.4 percent and 25 percent, respectively.[14]

Pandemic aside, many economists predicted an economic downturn sometime in 2020. Many Black communities were still recovering from the last recession when the COVID-19 recession started, prolonging the impact of joblessness. When unemployment reached 14.7 percent[15] for the broader population in April 2020, it was viewed as a national emergency even though many communities of color regularly experience higher unemployment rates.[16] Instead of investing in quality employment opportunities in communities that needed them, state laws cut the duration of time during which workers could receive UI benefits and access reemployment services.[17]

Black workers and other workers of color also experience barriers to reemployment, including hiring discrimination, a dearth of good jobs in their communities, and expensive credential requirements, among others. These factors mean that it can take workers of color longer to find new, quality jobs.[18] Therefore, shortened benefit duration is particularly harmful for workers of color who, because of structural racism in our economy, experience longer periods of unemployment on average.[19]

Slashing weeks of UI harms local economies.

A foundational purpose of the UI system is to provide economic security to jobless workers, their families, and their communities. It does so by providing partial wage replacement until an unemployed worker finds a new job. UI stabilizes jobless workers and their families but also the communities where they live. Fewer weeks of benefits means less wage replacement, which can increase hardship, force workers into less stable jobs that are misaligned with their skills, or push them to leave their communities for locations with better employment opportunities.

Business interests often overlook the vital stabilizing effect UI has on local economies, even though this is also a foundational purpose of the program. UI is an *automatic stabilizer*: by temporarily replacing some of the lost wages of unemployed workers, it automatically fuels overall economic demand when private spending declines during a national recession or local downturn. Cutting benefit duration reduces this stabilizing function, making layoffs more harmful to the economy. A recent study of real-time, anonymous banking data in states that cut off expanded federal unemployment benefits early in 2021 found that for every dollar of reduced benefits, household spending fell by 52 cents, depriving local businesses of needed revenue.[20] On the other hand, maintaining benefits can have a powerful, positive economic effect: studies found that during the Great Recession, UI benefits had a multiplier effect of at least 1.7, meaning that every dollar increase led to 70 cents in additional private-sector spending, for a total of $1.70 in economic return.[21]

When workers have the time they need to find appropriate jobs, businesses benefit from hiring workers with the right skills. Improved job matching enhances the functioning of the labor market overall, contributing to economic growth and vitality.[22]

Even 26 weeks of maximum unemployment support is well below international norms.

US workers get fewer weeks of UI benefits than workers in other developed countries. Iceland provides up to 30 months of benefits, and Denmark, France, Italy, the Netherlands, Norway, Portugal, and Spain provide up to 24 months of support.[23] Countries with robust economies, such as Germany (12 months), Canada (10.5 months) and Japan (9 months), provide substantially more months of support for their workers than the United States. See Figure A of Section 4. Benefit Duration of the 2021 report *Reforming Unemployment Insurance*.[24]

Longer benefits do little to deter workers from finding new jobs.

The idea that unemployed workers do not want to find work and must therefore be threatened with a loss of benefits comes from a long history of racist stereotypes that portray unemployed workers as lazy and undeserving of support.[25] In reality, studies indicate that additional weeks of UI benefits have little to no effect on job search activities or aggregate unemployment rates.[26] For example the Government Accountability Office recently reviewed 30 empirical studies and found that extended UI benefits during recent recessions had limited to no effect on workers' incentives to return to work.[27] Research shows that available UI benefit duration has little impact on workers with the resources to keep looking for better job opportunities, but longer benefit duration does enable households with fewer liquid assets—disproportionately Black and Latinx households—to spend more time searching for suitable work that matches their skills.[28]

States can afford to increase benefit duration.

States can raise substantial revenue for increasing benefit duration by updating UI financing, including broadening the taxable wage base and preventing businesses from dodging UI taxes. See our brief on state UI financing and solvency at www.uipolicyhub.org for more on these policy recommendations.

Data and State Comparison Resources

Compare your state's UI benefit maximum duration to other states.

Consult the "Duration of benefits" section in the USDOL's annual *Comparison of State Unemployment Insurance Laws*. In the 2021 edition, this section starts on page 3-26 of the complete document. USDOL's comparison report is updated every year following the end of the state legislative sessions.

Find out how many weeks of UI workers receive on average in your state and compare to other states.

USDOL's *Unemployment Insurance Data Summary* provides quarterly data on the average duration of UI benefits. Select your state and the time period and look for the column titled "Average duration past 12 months." Data can be viewed by state going back to 1971, and multiple states can be compared.

Estimate how much consumer spending will decline because of cuts to benefit duration.

A recent study by researchers at Harvard Business School used anonymous bank transaction data to measure the effect of withdrawing UI benefits on unemployed workers. Researchers found that a household's consumer spending declined 52.1 cents for every dollar of benefits lost. You can use this multiplier to extrapolate the impact of benefit cuts in your state, recognizing that the economic conditions may have changed substantially from summer 2021 when the research was conducted.[29] For example, if your state estimates $100 million in savings from cutting the maximum duration of UI benefits, this means $100 million fewer dollars flowing to jobless workers who are otherwise eligible for UI. You can calculate that, under similar economic conditions that prevailed in summer 2021, this would result in $100,000,000 x 0.521 = $52.1 million less in consumer spending by unemployed workers and their families in your state, undercutting local businesses and the state's economy.

Find out how many workers are exhausting UI benefits before finding work in your state.

When UI benefits do not last long enough for workers to find new jobs, workers are considered to have exhausted their benefits. Check the Century Foundation's Unemployment Insurance Dashboard and click on "How many are getting UI" and "Exhaustions" to see a map including the number of unemployed workers in the state who have exhausted their UI benefits. You can compare to other states and see monthly data going back to 2020.

Monthly data on UI exhaustions is also available directly from USDOL via its *ETA 5159 - Claims and Payment Activities* Report, but the Century Foundation website is more user-friendly.

USDOL's Unemployment Insurance Chartbook provides several helpful charts on benefit exhaustion, including the number of workers exhausting regular UI and exhaustion rates. Data can be viewed by state going back to 1972.

Understand how average duration of unemployment varies by race and gender in your state.

- See the US Bureau of Labor Statistics' Expanded State Employment Status Demographic Data released annually. These tables include data on race and ethnicity, gender, and age.
- See also the Economic Policy Institute's State Unemployment by Race and Ethnicity released quarterly.

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