

Accommodating Compelling Family Circumstances

Question: What UI rules apply to individuals who must leave their jobs?

Answer: All states have laws that disqualify individuals who leave work without good cause. Many non-UI experts assume that benefits are not available to individuals who quit their jobs. This is far from true. In fact, all state UI laws permit claimants to leave their jobs voluntarily with good cause as defined in state laws.

Good cause is defined as a compelling reason that would motivate a reasonable person to leave his or her job under similar circumstances. A majority of states have an additional limitation on good cause for leaving; they require that any valid cause for leaving work must involve reasons related to employment (usually by language limiting good cause to only those reasons “attributable to” employers, such as an employer-initiated change in work location or situations in which the employer requires workers to do something illegal). Non-work-related reasons are often called “personal reasons” for leaving in UI parlance.

The American Recovery and Reinvestment Act (ARRA) created incentives for states to adopt statutes allowing compelling family circumstances to count as good cause for leaving a job. This option was known as UI modernization. As a result, the concept of compelling family circumstances grew in popularity as several states adopted the three elements required to get federal incentives offered under the ARRA (Dixon, 2012). These elements were excusing quits due to reasons related to those leaving work due to consequences of domestic violence, individuals accompanying their spouses to new work locations, and people leaving work due to caregiving obligations (id.).

Question: What specific rules apply to individuals who leave work for compelling family circumstances?

Answer: The table below shows the overall breakdown of states and their disqualification rules regarding quits. Only 9 states recognize all valid reasons as good cause for leaving a job. They do so by not limiting good cause under their UI laws to reasons related to work. These nine states (AK, CA, HI, NV, NY, OR, PA, RI UT) offer the best protection to individuals forced to leave work for the full range of compelling reasons. States can adopt this best practice by simply repealing this work-related language (usually the term “attributable to” the employer) in voluntary leaving disqualification provisions.

Four states (AZ, KS, MA, and UT) have special provisions that make compelling circumstances legitimate reasons for leaving in an emergency, but these laws do not offer the same broad protection as the nine states that recognize all valid reasons as good cause to leave work. Another 19 states recognize some compelling family circumstances as furnishing good cause for quitting a job, typically the 3 elements required for UI modernization (domestic violence, moving to accompany a spouse to a new job, and separating from work due to caregiving responsibilities).

In recent years, the number of states with specific “compelling family circumstances” exceptions grew, but even in these states there are other important personal reasons for good cause that fall outside the three specific circumstances listed in those states following UI modernization. The remaining 26 states retain the restrictive position that recognizes only work-related reasons as good cause for leaving work.

UI Rules on Good Cause for Quits				
State	All Valid Reasons for Good Cause Accepted to Work	Compelling Family Reasons Accepted	Other Favorable Family-Friendly Provisions	No Provision for Quits Unrelated
Alabama				●
Alaska	●	●		
Arizona			●	
Arkansas		●		
California	●	●		
Colorado		●		
Connecticut		●		
Delaware		●		
Dist. of Columbia		●		
Florida				●
Georgia				●
Hawaii	●	●		
Idaho				●
Illinois		●		
Indiana				●
Iowa				●
Kansas			●	
Kentucky				●
Louisiana				●
Maine		●		
Maryland				●
Massachusetts			●	
Michigan				●
Minnesota		●		
Mississippi				●
Missouri				●
Montana				●
Nebraska				●
Nevada	●			

UI Rules on Good Cause for Quits				
State	All Valid Reasons for Good Cause Accepted to Work	Compelling Family Reasons Accepted	Other Favorable Family-Friendly Provisions	No Provision for Quits Unrelated
New Hampshire		●		
New Jersey				●
New Mexico				●
New York	●	●		
North Carolina				●
North Dakota				●
Ohio				●
Oklahoma		●		
Oregon	●	●		
Pennsylvania	●			
Rhode Island	●	●		
South Carolina		●		
South Dakota				●
Tennessee				●
Texas				●
Utah	●		●	
Vermont				●
Virginia				●
Washington		●		
West Virginia				●
Wisconsin		●		
Wyoming				●
Total	9	19	4	26

Question: What are the arguments for recognizing compelling family reasons for leaving work?

Answer: UI good cause rules restricted to work-related reasons, both in their genesis and their evolution, give insufficient consideration to the needs of working families, and, in particular, the needs of women who are forced to leave work for personal reasons beyond their control. Increasingly, men also face these dilemmas as well. As a step toward gender equity and economic justice, states should expand the reasons recognized as good cause under their UI laws.

In addition to quits, workers are fired for missing work when they face family or other valid reasons for leaving work, potentially disqualifying them for misconduct discharges. To fully accommodate compelling family reasons, states can clarify that discharges for reasons outside the effective control of jobless claimants do not demonstrate willful or intentional conduct constituting misconduct.

Common “personal” reasons for leaving work frequently relate to family caregiving obligations, moving to accompany a spouse, or to escape domestic violence. When these choices are viewed as personal reasons in UI law, they fail the test of good cause in states that limit valid reasons for quitting to those related to employment. There is a definite gender-based impact in this approach as women report quitting for family-related reasons while men report leaving work for work-related reasons. This, in turn, results in higher rates of UI denial rates in states that restrict valid reasons for quitting to those related to work. (Smith, 2003).

For many decades, the conflicts between family obligations and UI rules have been subject to debate in legislatures and contested in court cases (Dahm, 1980). The emergence of feminism and its critique of the “male breadwinner” model underlying UI laws focused further attention on these issues (McHugh, 1994; Maranville, 1992). NELP reported early in the 2000s on this issue (NELP, 2003). Despite this sustained focus, there is still much room for progress for quits involving compelling family circumstances.

Resources

- Elizabeth Ben-Ishai, Rick McHugh, and Claire McKenna, “Out of Sync: How Unemployment Insurance Rules Fail Workers with Volatile Job Schedules,” Report, National Employment Law Project and Center for Law and Social Policy (August 2015), <http://www.nelp.org/content/uploads/Out-of-Sync-Report.pdf>.
- Margaret M. Dahm & Phyllis H. Fineshriber, “Women in the Labor Force,” in National Commission on Unemployment Compensation, *Unemployment Compensation Studies & Research*, v. 3, p. 737 (1980), http://www.ows.doleta.gov/dmstree/misc_papers/advisory/ncuc/uc_studies_and_research/ncuc-vol3.pdf.
- Deborah Maranville, “Feminist Theory and Legal Practice: A Case Study on Unemployment Compensation Benefits and the Male Norm,” *Hastings Law Journal*, v. 43, p. 1081 (1992).
- Richard McHugh and Ingrid Kock, “Unemployment Insurance: Responding to the Expanding Role of Women in the Work Force,” *Clearinghouse Rev.*, v. 27, p. 1492 (April 1994).
- National Employment Law Project, *Between a Rock and a Hard Place: Confronting the Failure of State Unemployment Insurance Programs to Serve Women and Working Families*, Report (July 2003), http://nelp.3cdn.net/ebba1e75e059fc749d_0um6idptk.pdf.
- Rebecca Smith, Rick McHugh, and Andrew Stettner, “Unemployment Insurance and Voluntary Quits,” *Challenge*, v. 46 (May/June 2003), pp. 89-107.