

Background Paper on Federal Extended Benefit Restrictions'
Impact on Regular State UI Programs
By National Employment Law Project

In the early 1980s, Congress enacted four restrictions on Extended Benefits that narrowed Extended Benefits (EB) eligibility and indirectly restricted eligibility for regular state unemployment insurance (UI) programs. Congress did this by making federal financing for EB unavailable to claimants that exhausted regular state UI benefits without satisfying its new conditions for EB eligibility. This left states with the politically and financially difficult task of supporting 13 weeks of EB for claimants exhausting regular state UI benefits if their state laws didn't meet the federal restrictions on EB. Alternatively, states were faced with parsing their regular UI program exhaustees and denying EB to those not meeting the federal requirements. Few states chose these paths, and instead most states passed regular UI program restrictions matching the federal EB restrictions.

In particular, beginning in late 1980, states were required to pay the entire share of the first week of EB if they didn't have a waiting week—as a result, 16 states adopted waiting weeks in the following year.

Beginning in 1982, Congress denied EB to anyone that exhausted regular UI benefits without (1) serving a durational disqualification of at least 4 weeks in length with earnings at least 4 times his/her weekly benefit amount or (2) earned monetary eligibility for regular UI without at least 20 weeks of work or its equivalent. As a result, states that had not yet adopted durational disqualifications or restrictions in their monetary eligibility standards, now had to do so or undertake paying EB to some regular UI exhaustees without getting the federal government's 50% share of these individual's EB.

Congress also required in 1981 that EB recipients engage in a "systematic and sustained effort" to seek work and that they "provide tangible proof thereof." As a result, claimants were forced to search for work despite record-high unemployment rates and they were disqualified for failing to do so, or for failing to keep sufficient records to prove it. Congress also diluted state "suitable" work protections by requiring EB recipients to accept any minimum wage job within the person's capabilities, even if these jobs were unsuitable under state UI law. Congress suspended this provision from March 1993 to January 1, 1995, while passing an Emergency Unemployment Compensation extension in 1993, but the provision is once again in effect.

The Advisory Council on Unemployment Compensation recommended the repeal of all four of these EB restrictions as inconsistent with state control of their basis UI programs.

For more information contact: Rick McHugh, staff attorney, at (734) 426-6773 or rmchugh at nelp.org.

National Employment Law Project, Inc.

55 John Street, 7th Floor • New York, NY 10038
(212) 285-3025 • (212) 285-3044 (fax)
www.nelp.org • nelp@nelp.org