



Part Time Workers and Unemployment Insurance

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By National Employment Law Project

Introduction

Roughly half of unemployed workers do not receive unemployment insurance (UI) benefits. While reasons for low benefit reciprocity vary from state to state, one significant cause is state UI programs' failure to adapt to today's changing labor market and workforce. Perhaps more than any other group, part time workers are the victims of outdated UI eligibility rules in many states. With millions working part time, a majority of states still have UI rules limiting eligibility of part time workers for UI benefits. This exclusion from UI programs takes place even though part time wages are subject to UI payroll taxes and part time earnings prior to layoff meet states' monetary eligibility rules.

In the past, several states treated those looking only for part time work as insufficiently connected with the workforce, adopting eligibility rules requiring that workers be available for and seek full time work in order to get UI benefits. These rules ignore today's reality that part time work is a significant part of our economy. For many employers and workers, part time work is a necessity and in many occupations part time work is prevalent. Wholesale exclusions of part time workers disproportionately impact low wage and women workers. Developing a more equitable approach to part-time work by expanding UI eligibility is a growing priority for policy makers and advocates.

Fortunately, revising UI eligibility rules to end the wholesale exclusion of part time workers from UI programs is an idea that has gained momentum in the past few years. Since 2001, six states have meaningfully expanded eligibility for part-time jobless workers (California, Maine, Minnesota, New Jersey, New Mexico, and North Carolina). In 2003, a number of bills expanding UI eligibility for part time unemployed workers were introduced in Congress. This fact sheet provides an overview of UI rules governing part time UI eligibility as well as examples of state legislation passed to expand part time UI eligibility in a number of states.

What are the main ways that UI rules exclude part time workers? Part time workers most commonly run afoul of "able and available" eligibility rules or rules disqualifying those not seeking or accepting full time "suitable work." A diminishing majority of states explicitly require full time work to satisfy these rules or have court or agency interpretations of state laws requiring that UI claimants seek and accept full time work. This fact sheet reviews state UI rules affecting part time workers and makes suggestions for ways to treat part time workers fairly within the UI framework of "availability for work." A table attached to this fact sheet summarizes part time eligibility rules for all 53 states (including D.C., Puerto Rico, and the Virgin Islands) in early 2004.

Some facts about part time workers. Since the 1950s, part time employment has tripled in the United States, now representing more than one in six workers. Studies show that part time workers are working a considerable amount when compared to full time workers. For example, part timers work an average of 36 weeks a year, compared with 48 weeks for full time workers. The average prime age (25-44) part-time worker works 23 hours per week, the equivalent of three full days. Part-time workers also represent a large share of the unemployed—with roughly one in six of all unemployed workers reporting they are looking for part-time work. Part time workers are disproportionately female and low wage. Women represent 67% of part time workforce (compared with 42% of full-time workers). Most part-time workers are full participants in the labor market and not student age – with two out of three part-time workers over the age of 25. Part-time work is increasingly a strategy utilized by women in their prime earning years to balance work and family: one out of every five prime-age employed women works a part-time schedule compared to just one out of every 20 men in the same age group. In 2003, the average part-time worker earned just \$8.25 per hour, compared to \$14.64 among full time workers.

Despite their significant labor force attachment, part time working adults (those over age 25) are half as likely to receive UI benefits as full-time workers. Nationally, only 12% of unemployed part time workers receive unemployment benefits. In many states, the problem is worse. For example, a NELP study of Texas found that only 8.5 percent of part-time workers received UI benefits in the mid 1990s. These part-time Texas workers denied UI benefits were working an average of 30 weeks a year and 30 hours a week. According to a leading researcher, if the states adopted modest changes in the eligibility rules related to part-time workers, the gap between full time and part time workers who recover unemployment benefits would close considerably. Recent state legislation closing this gap by expanding part time eligibility for UI benefits is discussed in detail in this fact sheet.

What state policies permit part-time workers to get UI? As seen in the attached table, twenty-four states have more favorable part-time policies in 2004 according to our research. We classify nine states (California, Delaware, Kansas, Nebraska, New Mexico, Pennsylvania, South Dakota, Vermont, and Wyoming) as treating part time workers on a "parity basis" with full time workers. These states have judicial rulings, agency policies, or statutes that apply the same UI eligibility rules to jobless workers whether they are part time workers or full time workers. The remaining favorable states have extended eligibility to part time jobless workers on the basis of either "past work" or "good cause." Thirteen states permit payment of benefits when the jobless claimant has worked a substantial amount of part time work prior to his or her claim (Arkansas, Colorado, Florida, Hawaii, Iowa, Louisiana, Maine, Minnesota, New Jersey, New York, North Carolina, Oklahoma, and Puerto Rico). Two states (District of Columbia and Rhode Island) have court decisions permitting claimants with good cause to restrict their availability to part time work.

What are the part-time UI eligibility rules in other states? Overall, 25 of the 53 UI jurisdictions maintain restrictive rules regarding part time eligibility for UI. Nine states (Georgia, Indiana, Maine, Michigan, New Hampshire, New Mexico, Oklahoma, Washington, and West Virginia) have statutes requiring availability for full time work. Nine other states (Alabama, Connecticut, Idaho, Iowa, Minnesota, Nebraska, Oregon, Utah, and Wisconsin) have agency rules or regulations that do so. The remaining seven restrictive states have judicial decisions, agency rulings, or interpretations limiting the eligibility of part-time workers. Four remaining states have part-time eligibility in limited circumstances (Illinois, Massachusetts, Montana, and Washington). For example, in Illinois and Montana a jobless worker with a signed doctor's statement can restrict his or her availability to part time work, but in most other circumstances UI benefits would be denied to jobless workers available only for part time work. For these reasons, we classify these four states with the other 21 restrictive states in terms of part time eligibility because they permit part time eligibility in only very limited circumstances.

It is worth noting that while formal rules bar eligibility for those seeking part time work in these 25 states, administration of these rules is not totally effective in all circumstances. For example, telephone claims processes in some restrictive states (Illinois, for example) do not explicitly explore part time availability. As a result, only those part time job seekers that admit or volunteer that they are restricting their availability to part time work will run afoul of restrictive rules. Nevertheless, spotty enforcement provides little reason for punishing only those claimants openly seeking part time work due their honesty or naiveté when others similarly situated are paid benefits. Adopting a policy more fully reflecting the role of part time work in our economy and labor market would end the ambiguity and arbitrariness now facing part time jobless workers in these states.

Examples of Expanding UI Eligibility for Part Time Workers

Four states with favorable part time policies expanded UI eligibility significantly in 2003 (Maine, New Jersey, New Mexico, and North Carolina). States that are considering UI reforms are following the patterns of earlier state practices on part-time UI eligibility.

New Mexico-Parity for Part Time Workers

New Mexico passed a major UI reform in 2003. N.M. Sess. Laws 2003, ch. 47. The bill included the following part-time language, “. . . no individual who is otherwise eligible, shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or accepts only part-time work, instead of full-time work, if the part time work is for at least twenty hours per week.” N.M.S.A. 5-1-42(1); see also N.M.S.A. 5-1-5(A)(3). This language extends UI eligibility to part time workers available for at least 20 hours of work per week. New Mexico's rule is termed “parity” because part time eligibility does not turn on prior part time employment or good cause before permitting claimants to restrict their availability to part time work. We classify nine states as providing parity for part time jobless workers in 2004.

California-Eligibility Based Upon Past History By Statute

Because of a 2001 amendment (Ch. 409, L. 2001), California provides by statute that claimants shall not be denied benefits solely because they are available for part time work. The law now reads:

An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work. If an individual restricts his or her availability to part-time work, he or she may be considered to be able to work and available for work pursuant to subdivision (c) of Section 1253 if it is determined that all of the following conditions exist:

- (a) The claim is based on the part-time employment.
- (b) The claimant is actively seeking and is will to accept work under essentially the same conditions as existed while the wage credits were accrued.
- (c) The claimant imposes no other restrictions and is in a labor market in which a reasonable demand exists for the part-time service he or she offers.

Cal. Unempl. Ins. Code §1253.8. This California amendment extends part time UI eligibility to jobless workers with a past history of part time work that wish to continue seeking part time jobs.

California-Good Cause By Case Law and Regulation

California also has a pre-existing regulation concerning the applicability of UI availability rules to part time claimants. Prior to its 2001 amendment, California already permitted a UI claimant to show “good cause” for limiting his or her work search to part-time work. Once a claimant showed good cause for limiting availability, then he or she remained eligible for UI so long as there remains a “substantial field of employment” for which the claimant is available. Because the UI agency had better access to labor market information, the burden was on the agency to show the claimant's restriction left them unavailable to a substantial field of employment. 22 Calif. Code Reg. §1253(c)-1(b) and (c). California's regulations implemented favorable court decisions and remain good examples of a “good cause” approach to expanding part time UI eligibility based upon good cause. Rhode Island and District of Columbia also have good cases that say that these states pay benefits to part time jobless workers with good cause to restrict their availability. (These favorable cases from all three states are cited in Appendix II to NELP's 2002 report on part time work and UI, Laid Off and Left Out.) As a result of the combined impact of its past history statute and its good cause regulation, part time claimants in California are eligible for UI benefits on the essentially the same basis as full time jobless workers. For that reason, we characterize California as a “parity” state.

North Carolina-Eligibility Based Upon Past History

North Carolina amended its UI law in 2003 (N.C. 2003 Sess. Law 220). The amendment provides that:

An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that the individual is only available for part-time work. If an individual restricts his or her eligibility to part-time work, the individual may be considered able and available to work if it is determined that all the following conditions exist:

- a. The claimant's monetary eligibility is based predominately on wages from part-time work.
- b. The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the claimant's reported wages were accrued.
- c. The claimant imposes no other restriction and is in a labor market in which a reasonable demand exists for part-time service. N.C.G.S. 96-13(a)(6).

The 2003 North Carolina amendment serves as a good illustration of the thirteen states basing part time UI eligibility upon “past history” of part time work.

What are the costs of covering part-time workers under UI? The length and amount of unemployment insurance benefits are determined by workers' wages in the year prior to layoff. Because part-time workers have smaller earnings amounts, the cost of extending UI eligibility to this group is lower than might be expected. For the most part, UI weekly benefits will be lower for unemployed part-time workers because part-time earnings are lower than full-time earnings. In addition, part-time workers tend to remain unemployed for shorter periods of time than full-time workers.

Estimating the cost of expanding UI eligibility for part time workers involves using Current Population Survey and unemployment insurance administrative data. First, CPS is used to measure the extent of part time workers in a state and the degree to which they experience unemployment. Average earnings (and, in turn, potential weekly benefit amounts) are determined. Reductions in the number of part time workers potentially eligible for UI benefits are then made for the number of part time jobless workers already getting UI despite restrictions, the proportion of part time workers unemployed for reasons other than layoffs and less likely to draw benefits, and the proportion of part time workers who would be

found monetarily ineligible in a state. An estimated weekly benefit for part time jobless workers can be calculated based upon the differences in earnings between part time workers and other workers, and their average duration of UI benefit receipt must be estimated.

NELP recently estimated the cost of part time eligibility in Georgia applying this methodology. The proposal barred Georgia from denying UI benefits to jobless workers solely because they were seeking part time work so long as there was a reasonable demand for part time services in claimants' labor market. Based upon an analysis of CPS data from 2000-2002, we found an estimated that 2900 Georgians would benefit annually from expanding UI eligibility for part time workers on the basis of labor market trends in the last several years. This translated into an additional 27,160 weekly benefit checks paid out per year, costing around \$2.5 million. To put this in perspective, Georgia paid a total of \$780 million in UI benefits in 2002. Obviously, cost estimates will vary based upon the weekly benefit formulas in a state, the assumptions made in making the estimate, and the numbers of part time workers in a state's economy.

What are "partial" or "underemployment" UI benefits? All state UI laws permit workers facing reduced hours of work draw "partial" or "underemployment" UI benefits while working part time. In general, the worker must earn less than his/her UI weekly benefit amount in a week of less than full-time work. States then provide a partial disregard of some portion of the claimant's earnings, depending upon each state's partial UI benefit formula. These income disregards range from the entire weekly benefit amount in Puerto Rico and one-half the weekly benefit amount in Idaho, Illinois, and Nebraska, down to one-fifth of the weekly benefit amount in New Hampshire, New Mexico, Ohio, and Rhode Island.

By design, partial UI benefits are paid to lower-wage workers that are employed part-time. Studies have shown that higher income disregards in partial UI benefit formulas promote jobless workers to accept part-time employment. To encourage their use whenever appropriate, most states do not charge partial UI benefits to the employer furnishing the part-time employment. When addressing eligibility for part-time workers, partial UI benefit formulas should be revised and improved where necessary.

Conclusion

Fairer policies in twenty-four states demonstrate that part-time eligibility for UI benefits are no longer departures from established UI eligibility rules. Instead, broader UI part time eligibility rules involve individual application of longstanding UI eligibility rules to part time workers, rather than their wholesale ineligibility under more traditional full time availability rules. The adoption of broader eligibility for part time workers is a better reflection of the role of part time workers in today's labor market and another step toward equity for low wage and women workers in UI programs.

Summary Table on Treatment of Part Time Workers Under State UI Programs-- March 2004

Eligibility on Parity Basis with Full Time Work (9 States)	Eligibility with Past History of Part Time Work (13 States)	Eligibility with Good Cause for Restricting Availability (2 states)	Eligibility on More Limited Basis (4 States)	Not Eligible without Full Time Availability (25 States)
California Delaware Kansas Nebraska New Mexico Pennsylvania South Dakota Vermont Wyoming	Arkansas Colorado Florida Hawaii Iowa Louisiana Maine Minnesota New Jersey New York North Carolina Oklahoma Puerto Rico	District of Columbia Rhode Island	Illinois Massachusetts Montana Washington	Alabama Alaska Arizona Connecticut Georgia Idaho Indiana Kentucky Maryland Michigan Mississippi Missouri Nevada New Hampshire North Dakota Ohio Oregon South Carolina Tennessee Texas Utah Virginia Virgin Islands West Virginia Wisconsin

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