

Suitable Work

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) Suitable Work Definitions

Refusal of Work or Job Refusal: The act of refusing an interview for, turning down an offer for, leaving, or not applying for a suitable job.

Suitable Work: Employment that is comparable to the jobseeker’s prior work in terms of wages, hours, or other conditions and is consistent with the prevailing standards for similar work in the locality. Most states have additional criteria for evaluating the suitability of work.

Overview

Once a worker becomes eligible for unemployment insurance (UI), they need to meet several ongoing criteria to continue receiving benefits each week: being able to work, being available for suitable work, and actively seeking suitable work. Workers have some flexibility regarding the type of work they seek out and whether to accept a job offer. If the job pays too little compared to the jobseeker’s prior job or is a poor fit for their skills and experience, they may be able to refuse the job offer and still receive UI benefits because the work was not considered suitable.

This “suitable work” standard¹ is intended to help ensure that jobseekers are not forced into substandard jobs that could depress wages and degrade other working conditions.² Another benefit of giving ample time to jobseekers is that it provides more opportunity for them to find positions that match their skills and financial needs—this is better for the worker and the employer, and it improves the functioning of the labor market.³

Due to systemic discrimination in the labor market, women,⁴ Black, Latinx, and Native American workers are occupationally segregated into low-wage jobs and disproportionately impacted by erratic work schedules and unpredictable reductions in hours and pay.⁵ The ability to refuse low-paid, unsafe, or unpredictable jobs and maintain access to UI benefits would help empower these workers to find better fits for their caregiving responsibilities, financial needs, or skill sets without further exacerbating occupational segregation.⁶ The

suitable work standard has the potential to do so; however, as discussed below, many states have weakened this standard.

Assessing whether refused work is suitable

When a jobseeker receiving UI refuses a job offer, they are required to report this fact to the state agency as part of the verification process to continue to receive UI benefits. If the state agency finds that the refused job offer was suitable, the jobseeker risks losing UI benefits. Therefore, the key question is what constitutes suitable work.

While abiding by federal law (described in more detail below), states set their own standards to determine whether work being offered is suitable.⁷ States' definitions of suitable work vary, but they generally consider factors such as the risk to a worker's health, safety, and morals; physical fitness; prior training, experience, and earnings; skills; length of unemployment; potential for obtaining work in one's trade or occupation; and the commuting distance from home to work.⁸ States assess these factors in each worker's case in determining whether the refusal of work disqualifies them from UI.

If the state finds that a worker refused a suitable job offer, the worker will stop receiving UI benefits and will be left without support while they continue their search. In most states, disqualification from UI because of refusal of suitable work lasts until the worker is employed again and earns a certain amount of wages, works for a certain period of time, or both.⁹

Weakening suitability standards

Unfortunately, 14 states¹⁰ have made their suitable work standards worse for jobseekers by expanding the types of work that are considered suitable the longer a jobseeker is unemployed. A jobseeker who is unemployed for a short time may be able to refuse low-paying jobs and maintain UI benefits; however, that choice diminishes as unemployment continues. Most commonly, states lower the threshold for acceptable wages over time. Some consider jobs suitable even when earnings are (1) below prior wages; (2) comparable to the jobseeker's weekly UI benefits, which are quite low in many states; or (3) aligned with minimum wage. States have used a combination of these comparisons as well.¹¹ These revisions lead to workers being forced to either accept low-paying jobs or lose their UI benefits.

Idaho law, for example, demands that jobseekers expand their job search outside of their regular trade or occupation as the duration of their unemployment increases, although state law does not specify at what point.¹² In addition, a jobseeker in Idaho is required to accept work that pays more than half of the worker's weekly benefit amount in order to remain eligible for benefits.¹³ Georgia specifies that, after an individual has received 10 weeks of benefits, no work will be considered unsuitable if it pays wages equal to at least 66 percent of the individual's highest quarter earnings during their base period and at least equal to the federal or state minimum wage.¹⁴ One of the worst states for expansion of the suitability standard, Wyoming, broadens the standard after only four weeks of unemployment, considering suitable work to be a position offering at least 50 percent of the compensation earned in their previous occupation, which does not even need to be a position in the jobseeker's customary occupation.¹⁵

Lessons about suitable work from the COVID-19 pandemic

When COVID-19 hit the United States in early 2020, much of the economy shut down. By April, 23 million US workers were unemployed—the greatest job loss since the Great Depression.¹⁶ Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act and additional legislation, which established temporary new UI programs that significantly expanded UI eligibility, such as the Pandemic Unemployment Assistance (PUA)¹⁷ program. PUA made the UI system more equitable by temporarily expanding eligibility to many groups of workers often excluded from UI by state and federal law.¹⁸ As applied to PUA, suitable work did not include work that “present[s] any unusual risk to the health, safety, or morals of the individual.”¹⁹

Between PUA and the regular UI program, millions of workers forced out of work by the pandemic were able to receive UI. As workers were called back to work, many were justifiably concerned about returning to unsafe conditions that could expose them, their families, and the broader public to COVID-19.²⁰ The suitable work standard allowed many unemployed workers a viable recourse to refuse unsafe work.²¹ In addition, there were states that clarified how their suitable work laws further protected workers. In Colorado, for example, the governor issued an executive order requiring the state UI agency to issue new COVID-19 guidelines, which allowed many workers to continue receiving UI when they refused work for a COVID-19-related reason.²² Similarly, in North Carolina, the state UI agency issued a policy incorporating the COVID-19 workplace guidelines issued by the Centers for Disease Control and Prevention and extended the protections to workers who were caring for children or vulnerable household members.²³

The experience of the pandemic—where millions of lives were endangered by COVID-19—shows that the right to refuse unsuitable work is a necessary safeguard for workers. Although pandemic-era supports and protections have faded away, the challenges remain, even if lessened. Childcare shortages and affordability remain one of the main drivers of unemployment or a shift to part-time work for women.²⁴ Workers still must contend with unsafe jobs.²⁵ These problems persist, and states can learn from the experience with suitability requirements during the pandemic and strengthen current standards to better serve workers’ needs in an environment that continues to be uncertain.

Federal Requirements and Guidance

Federal law limits the type of work an individual receiving UI must accept. If the jobseeker refuses work under the circumstances below, they can maintain UI benefits:

- The position offered to the jobseeker is vacant due directly to a strike, lockout, or other labor dispute.
- As a condition of the job offer, the jobseeker would be required to join a company union or to resign from or refrain from joining a labor organization.²⁶

Apart from these two bright line limitations in the labor dispute and union context, federal law also dictates a third limitation—states cannot deny UI benefits to workers who refuse work that does not meet certain labor market conditions or comply with certain labor standards.²⁷ The “prevailing work conditions” standard allows an individual to refuse work that is substantially less favorable in terms of wages, hours, or other conditions than those prevailing for similar work in their locality.²⁸ This standard was designed to ensure that the UI program does not undermine existing labor standards by exerting downward pressure on wages and other conditions of work. In other words, if unemployed workers were forced, through potential denial of benefits, to work in conditions that were less favorable than what

is generally available in their locality, this could lead to a race to the bottom in terms of job quality.²⁹

Applying the prevailing conditions of work requirement

The US Department of Labor (USDOL) has issued a key directive³⁰ on suitable work that describes the minimum requirements states must meet to conform with the federal prevailing conditions standard.³¹ Before denying UI benefits to a jobseeker for refusing a job, in these circumstances states are required to investigate whether a refused job offer meets the prevailing conditions requirement: if the worker raises the issue, the worker objects on any of the grounds of suitability, or facts appear during the proceeding that put the agency on notice that issues of less favorable conditions may be relevant.³²

The USDOL directive describes states' two-tiered analysis. First, under state law, the determination of whether the work is suitable is dependent on the jobseeker's previous wage and skill levels. The second stage of the analysis applies the federal standard of "prevailing conditions of work." Under this analysis, the state should examine (1) what constitutes "similar work"; (2) the "prevailing wages, hours, or other conditions"; and (3) whether the offered work is "substantially less favorable" to the particular jobseeker.³³

Similar work is assessed on the basis of whether the job offer is similar to work in the "competitive labor market area" in terms of the duties performed; skill, ability, and knowledge required; and the responsibilities involved. Once similar work is identified for the area, states must then examine the wages, hours, and conditions most common in the area. USDOL describes conditions of work comprehensively, including the physical conditions under which the work is performed as well as conditions that arise at work as a result of laws and regulations.³⁴ It encompasses a multitude of benefits and conditions for good jobs such as health insurance; paid sick, vacation, and annual leave; retirement provisions; job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; health and safety rules; physical conditions such as heat, light and ventilation; shifts of employment; permanency of work; and more.³⁵

Finally, the state should determine whether the material conditions of the work refused would "undermine the existing labor market conditions" or have an appreciably negative effect on the jobseeker.³⁶ USDOL directs states to conduct the "prevailing conditions of work" analysis by giving the jobseeker the benefit of the doubt.

Policy Recommendations

States should enact suitable work standards that support workers in securing quality jobs that are well-matched to their skills, experience, and training. USDOL's guidance for the prevailing conditions of work standard—including a liberal interpretation that gives jobseekers the benefit of the doubt to keep receiving UI benefits—is a strong framework that has the potential to empower workers. However, states have too often opted for suitability standards that force workers into the cruel choice of accepting underpaying, precarious employment or losing UI benefits. States should:

- 1. Adopt the prevailing conditions of work standard and analysis described by USDOL.** Under the framework of the analysis described above, the state should examine (1) what constitutes "similar work"; (2) the "prevailing wages, hours, or other

conditions"; and (3) whether the offered work is "substantially less favorable" to the particular jobseeker. This is the strongest framework to allow jobseekers the opportunity to find the right job with suitable conditions and benefits. It is also required by federal law, and the USDOL should enforce this standard for all states.

- **Temporary work.** Temporary work provided by temporary staffing agencies have proliferated since the Great Recession and yet temporary staffing workers earn 41 percent less than workers in standard work arrangements.³⁷ As noted by USDOL, employers offering temporary work could be depressing standards for "prevailing conditions" because these positions offer lower wages, different hours, and fewer benefits than do permanent roles.³⁸ For these reasons, if a jobseeker refuses a job offer of temporary work, then states should engage in a prevailing conditions inquiry with an eye toward the potential of temporary work to degrade labor standards.³⁹

2. Maintain standards for determining what is considered suitable regardless of length of unemployment. As described above, 14 states⁴⁰ have evolving standards of suitability that tend to become worse the longer a worker is unemployed. Triggering weaker standards of suitability because of the duration of unemployment is unnecessary; states already have caps on the number of weeks jobseekers can receive UI.⁴¹ Forcing workers to accept subpar jobs undermines the suitability standard, which was intended to enable jobseekers to maintain their living standards and prevent the degradation of job quality standards in an area. The standard should not be set aside or diminished due to the length of unemployment.

- **Earnings.** In assessing whether a new job is suitable, states consider whether the offered wage is similar to the prevailing wage for the occupation while taking into account the worker's expertise, training, and experience level. If the offered wage is not aligned with the prevailing wage or is less than the worker's previous wages, the work should not be deemed suitable. This standard for comparing earnings—rather than using the minimum wage or the weekly benefit amount of UI as a comparator—is better aligned with the purpose of the suitability standard: to preserve labor standards. For example, Delaware's standard is whether the earnings of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.⁴² The duration of unemployment does not shift this Delaware's standard, which we recommend as a model.

3. Adopt additional standards beyond the prevailing conditions of work.

- **Distance of commute from home to work.** Some states, such as Delaware,⁴³ New York,⁴⁴ and Ohio,⁴⁵ will not disqualify workers from UI if they turn down a job with an unreasonably long or expensive commute unless provision is made for the expense.⁴⁶ We recommend this analysis include whether the new job's commute is similar to the jobseeker's prior commute in addition to the time and cost of the commute for either private or public transportation.
- **Personal or family needs.** Some states take into account caregiving responsibilities and scheduling needs. Maine, for example, will allow a worker to refuse a position on a shift (if the greater part falls between midnight and five o'clock in the morning) because of family obligations.⁴⁷ Maine also allows a jobseeker to refuse a job the worker previously vacated if the reasons for leaving have not changed.⁴⁸ Maine's

model offers a compelling standard for other states. States could also take this a step further by allowing a new job to be considered unsuitable when a worker's caregiving arrangements does not permit them to work during the shifts available.

- **Union or collective bargaining issues.** If there is a relevant collective bargaining agreement, union contract, or established employer plan, program, or policy that dictates the right of refusal, jobseekers should not be disqualified from UI benefits for refusal of work as that right is defined. For example, in New York, a refusal of work is permissible if the refusal would interfere with the right to join or retain membership in a labor organization or interfere with the terms of a collective bargaining agreement.⁴⁹ Similar standards should be adopted by all states.

4. **Limit unnecessary drug test disqualifications from UI.** Some states consider a withdrawn job offer due to a failed drug test to be equivalent to refusing an offer of suitable employment, which could disqualify a worker from UI.⁵⁰ Similarly, if the worker refuses, without good cause, to submit to a drug test required by the potential employer as a condition of an offer of employment, this could also be considered refusing suitable work. If prospective employers report this information to the state agency, this information then provides a basis to disqualify workers from UI. Additionally, if a worker was discharged for unlawful drug use or if the only suitable work available is an occupation that requires drug testing, federal law permits states in these two narrow circumstances to conduct drug testing on these individuals as a condition of eligibility.⁵¹ States are permitted to deny benefits to individuals who test positive under these circumstances.⁵²

States already have multiple levers to address drug abuse and employment readiness. As an illustration, in instances where a worker loses a job for a drug-related reason, states have long been able to disqualify that individual from UI benefits based on misconduct. States also have many options to identify individuals who may need drug treatment and do not need to use the UI program as a drug treatment screening program.⁵³ Finally, this policy represents an intrusion into the privacy of workers and is rooted in an assumption that some workers are undeserving of UI. This level of scrutiny could also discourage workers from even applying to UI. For these reasons, we recommend eliminating these laws.

5. **Ensure workers are given proper notice and explanation of suitable work.** States should provide readily accessible information about the suitable work standard in plain language and translate it into multiple languages on state agency websites. California's Employment Development Division website, for example, provides helpful, accessible examples of suitable work.⁵⁴
6. **Dismantle work refusal websites and hotlines.** Nearly all states have processes for employers to submit documentation that an offer of suitable employment was refused by a jobseeker.⁵⁵ Creating work refusal websites and hotlines—websites or hotlines where jobseekers can be reported by anyone from the public for refusing work—is unnecessary. These measures can encourage false reporting against workers, which can harm workers by disqualifying them from UI and subjecting them to lengthy appeals processes to regain their benefits. In addition, work refusal websites and hotlines duplicate existing agency employment verification efforts—thus, investigating these

work refusals becomes an additional administrative task. Agency staff are already stretched thin and diverting scarce resources to investigating refusal of work as fraud is unnecessary and burdens a strained system. For these reasons, we recommend that states remove work refusal public reporting.

Research Findings and Arguments to Support Reform

Supporting workers in finding well-matched jobs is better for workers, employers, and the labor market.

UI was designed to allow workers a reasonable period of time to find replacement work that supports their standard of living and utilizes their highest level of skill and education. Encouraging workers to accept jobs in line with their occupation, wages, benefits, caregiving arrangements, and other needs—jobs that are well-matched between the worker and employer—supports a better functioning labor market.⁵⁶ It can lead to less turnover in the workforce⁵⁷ and more economic security for workers and avoid trapping workers in underpaying, inflexible work.⁵⁸

Cutting off workers prematurely from UI is harmful to workers and the economy.

The recent expansion of UI benefits under the CARES Act (and subsequent related laws) provides an illustration of how critical UI can be for local economies.⁵⁹ UI is particularly effective at getting money into the hands of consumers who need it and will spend it quickly, supporting businesses in their communities and stabilizing the state's economy. To understand the magnitude of this support, consider the recent study of real-time, anonymous banking data in states that cut off the pandemic federal unemployment programs early in 2021: researchers found that for every dollar of reduced benefits, household spending fell by 52 cents, depriving local businesses of needed revenue and depriving workers and their families of needed funds for rent, food, and other essentials.⁶⁰

Although the pandemic federal unemployment programs show the impact of UI at a large scale, the same lessons are applicable in the context of UI during normal times. UI helps keep workers afloat and stabilizes local economies. Given the benefits of UI, suitability standards should be geared toward maintaining UI for those searching for work rather than cutting them off from UI while unemployment continues.

Forcing workers into unsuitable work because of longer periods of unemployment disproportionately harms workers of color.

Forcing workers to take low-paying jobs or risk losing UI can drive down wages and depress labor standards, which negatively impacts the local economy. Leaving workers no choice but to accept work that fails to meet their needs—because the worker has been unemployed longer—has a particularly negative impact on workers of color, caregivers, people with disabilities, and older workers who experience more reemployment barriers. For example, Black workers and other workers of color experience more hiring discrimination and a dearth of good jobs in their communities because of structural racism, among other barriers that can lengthen a hunt for the right job.⁶¹ Simply put, it can take longer to find a good job.

For example, an analysis of the long-term unemployment rate in the United States by race and ethnicity during the economic expansion 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.⁶² 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.⁶³ Thus, expanded suitability standards are particularly harmful for workers of color who, because of structural racism in our economy, experience longer periods of unemployment on average.⁶⁴

Suitable work should meet prevailing standards.

As discussed above, suitable work should reflect the prevailing labor market standards and be comparable to a jobseeker's prior job in terms of wages and conditions. However, many states expand the definition of suitable work to wage comparisons that are too low—such as minimum wage or weekly benefit amounts—when a jobseeker has been unemployed for a longer period of time. The average UI benefits across the country replace less than 40 percent of workers' previous wages,⁶⁵ providing too little support for many unemployed workers. In many states, policymakers have set UI benefit levels so low that families fall into poverty when a worker becomes unemployed.⁶⁶ Plus, the federal minimum wage is still stuck at \$7.25, which Congress has not increased since 2009.⁶⁷ For these reasons, neither minimum wage nor the weekly benefit amount are adequate wage comparisons for determining suitability.

Data and State Comparison Resources

Compare your state's suitable work law to other states.

Consult USDOL's annual [Comparison of State Unemployment Insurance Laws Chapter 5-35](#) for a detailed comparison of states' summaries of suitable work laws, including criteria for suitable work and disqualifications for refusing suitable work:

- Disqualification Terms - Refusal of Suitable Work (Table 5-16)

Evaluate your state's suitable work denials and compare to other states.

You can view national or state data for denials based on refusal of suitable work by using the Century Foundation's [Unemployment Insurance Data Explorer](#). This tool utilizes USDOL's data in a more user-friendly interface. Helpful data found here includes:

- Non-Separation Denial Breakdown
- Non-Separation Denial Rates (Per Determination)
- Non-Separation Denial Rates (Per Initial Claim)

Find additional suitable work data for your state.

Check USDOL's [Data Downloads](#) for suitable work data, including determinations, denials, and appeals.

- Report ETA 207- Provides data on nonmonetary determinations and denials, including suitable work.
- Report ETA 5130 - Tracks the number of appeals by issue, including refusal of suitable work.

Discover how overly broad suitable work laws could be impacting benefits in your state.

You can track your state's denial rate, appeal processing time, time to settle disputed claims, and time to first payment by using either USDOL's UI Data Dashboard (shared above) or the

Century Foundation's [Unemployment Insurance Data Explorer](#). You can also check your state's reciprocity rate and exhaustions.

Examine your state's reemployment activity.

Check the health of your state's reemployment program (including wages) using [USDOL's Data Downloads](#) to analyze what is working and what is not.

- ETA 9047 Reemployment of UI Benefit Recipients - Determines the rate at which UI recipients return to work.
- ETA 9048 Worker Profiling and Reemployment Services Activity
- ETA 9049 Worker Profiling and Reemployment Services Outcomes

References and Essential Articles

Relevant UI Program Letters

No. 41-98 (Application of the Prevailing Conditions of Work Requirement)

<https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-41-98>.

No. 41-98, Change 1 (Application of the Prevailing Conditions of Work Requirement – Questions and Answers)

<https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-41-98-change-1>.

Equity and the importance of centering workers in suitable work

Monée Fields-White, Vivian Graubard, Alberto Rodríguez, Nikki Zeichner, and Cassandra Robertson, *Unpacking Inequities in Unemployment Insurance*, New America, September 17, 2020, <https://www.newamerica.org/pit/reports/unpacking-inequities-unemployment-insurance/last-hired-first-fired-black-latinx-workers-and-the-fight-for-jobs>.

Shengwei Sun, *Part-Time Working Caregivers Need Unemployment Insurance Reform*, National Women's Law Center, June 29, 2022, <https://nwlc.org/resource/part-time-working-caregivers-need-unemployment-insurance-reform/>.

Protecting workers during the pandemic and beyond

Michele Evermore, *The Unemployment Pandemic: Addressing America's Job Crisis*, National Employment Law Project, June 18, 2020,

<https://www.nelp.org/publication/unemployment-pandemic-addressing-americas-job-crisis/>.

How States and Cities Can Respond to Workers' Demands for Economic Security, Health and Safety Protections and Workplace Democracy, National Employment Law Project and Economic Policy Institute, December 17, 2020, <https://www.nelp.org/publication/states-cities-can-respond-workers-demands-economic-security-health-safety-protections-workplace-democracy/>.

Suitable work in states

Michael Shields and Annie Volker, *State of Working Ohio 2022*, Policy Matters Ohio, September 5, 2022, <https://www.policymattersohio.org/research-policy/fair-economy/work-wages/state-of-working-ohio/state-of-working-ohio-2022>.

Dustin Pugel, *HB 4 Would Slash Unemployment Benefits, Harming Economy and Deepening Hardship for Kentucky Workers*, Kentucky Center for Economic Policy, February 4, 2022, <https://kypolicy.org/hb-4-would-slash-unemployment-benefits-harming-economy-and-deepening-hardship-for-kentucky-workers/>.

Endnotes

¹ “Suitable work” is a concept used in determining UI eligibility—whether the worker is available for suitable work and actively seeking suitable work—as well as in assessing whether a worker had good cause to quit when the work has changed and become unsuitable. The latter concept is discussed in the policy advocacy brief on good cause quits. See www.uipolicyhub.org. In this brief, we focus on the suitable work standard used to determine whether a jobseeker’s refusal of work disqualifies them from UI benefits.

² “Unemployment Insurance Program Letter No. 41-98,” US Department of Labor, Employment and Training Administration, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-41-98>.

³ See Ammar Farooq, Adriana Kugler, and Umberto Muratori, “Do Unemployment Insurance Benefits Improve Match Quality? Evidence from Recent U.S. Recessions,” National Bureau of Economic Research, July 2020, https://www.nber.org/system/files/working_papers/w27574/revisions/w27574.rev0.pdf.

⁴ Robin Bleiweis, Diana Boesch, and Alexandra Cawthorne Gaines, “Factsheet: The Basic Facts about Women in Poverty,” Center for American Progress, August 3, 2020, <https://www.americanprogress.org/article/basic-facts-women-poverty/>.

⁵ See Jasmine Tucker and Julie Vogtman, “When Hard Work is Not Enough: Women in Low-Paid Jobs,” National Women’s Law Center, April 2020, https://nwlc.org/wp-content/uploads/2020/04/Women-in-Low-Paid-Jobs-report_pp04-FINAL-4.2.pdf. See also Liz Ben-Ishai, Rick McHugh, and Claire McKenna, “Out of Sync: How Unemployment Insurance Rules Fail Workers with Volatile Job Schedules,” National Employment Law Project, August 2015, <https://www.nelp.org/wp-content/uploads/Out-of-Sync-Report.pdf>.

⁶ Alana Semuels, “How Poor Single Moms Survive,” *Atlantic*, December 1, 2015,

<https://www.theatlantic.com/business/archive/2015/12/how-poor-single-moms-survive/418158/>.

⁷ Most states explicitly have a suitability standard. However, Delaware and New York make no reference to the suitability of work offered—instead their standard uses comparable language by dictating that disqualification from UI for refusals of work is based on whether the jobseeker is reasonably fit for the job. In Wisconsin, during the first six weeks of unemployment an individual has good cause for refusing work at a lower grade of skill or for significantly lower pay than one or more recent jobs. See “Comparison of State Unemployment Insurance Laws 2021,” US Department of Labor, 2021, 5-35, <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2021/complete.pdf>.

⁸ *Id.*, 5-34.

⁹ *Id.*, 5-38.

¹⁰ Florida, Georgia, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New York, North Carolina, North Dakota, Tennessee, Utah, and Wyoming weaken their suitable work requirements based on the duration of unemployment. “Comparison of State Unemployment Insurance Laws 2021,” 5-37–5-38. Additional states also consider length of unemployment as a factor in determining whether work is suitable without specifying in law how the standards change as a jobseeker’s period of unemployment lengthens. For example, under Section 1258 of the California Code of Regulations, one of the factors to determine “suitable employment” is the “length of unemployment and prospects for securing local work in his customary occupation.”

¹¹ Rick McHugh, Rebecca Dixon, Claire McKenna, and George Wentworth, “Unemployment Insurance Policy Advocate’s Toolkit,” National Employment Law Project, October 22, 2015, 35, <http://nelp.org/publication/unemployment-insurance-policy-advocates-toolkit-2015/>.

¹² “Comparison of State Unemployment Insurance Laws 2021.”

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*, 5-35–5-36.

¹⁶ Elizabeth Weber Handwerker et al., “Employment Recovery in the Wake of the COVID-19 Pandemic,” *Monthly Labor Review*, US Bureau of Labor Statistics, December 2020, <https://doi.org/10.21916/mlr.2020.27>.

¹⁷ Additional programs included Federal Pandemic Unemployment Compensation, which increased benefit amounts, and a program of extended benefit duration (Pandemic Emergency Unemployment Compensation). The American Rescue Plan Act also created Mixed Earner Unemployment Compensation, which provided an additional UI supplement for workers with self-employment income.

¹⁸ Michele Evermore, “Unemployment Insurance During COVID-19: The CARES Act and the Role of UI During the Pandemic,” National Employment Law Project, June 9, 2020, <https://www.nelp.org/publication/unemployment-insurance-covid-19-cares-act-role-ui-pandemic/>. PUA provided benefits to workers in app-based jobs, who are frequently misclassified by employers as independent contractors and are disproportionately Black and Latinx. Rebecca Smith, “Independent Contractors and Covid-19: Working Without Protections,” National Employment Law Project, March 24, 2020, <https://www.nelp.org/publication/independent-contractors-covid-19-working-without-protections/>. PUA also included part-time workers, who are disproportionately women, people of color, older workers, and people with disabilities. See Labor Force Statistics from the Current Population Survey, US Bureau of Labor Statistics, 2021.

¹⁹ 20 C.F.R. § 625.13(B)(2). The regulations governing the Disaster Unemployment Assistance, in part, applied to the PUA program. National Employment Law Project, “Letter to DOL Urging Revised Guidance on Returning to Suitable Work,” May 12, 2020, <https://www.nelp.org/publication/letter-dol-urging-revised-guidance-returning-suitable-work/>.

²⁰ Maurice Emsellem, “Labor Secretary Scalia Wrongly Rejects Federal Role in Enforcing Unemployment Rights of Workers Who Refuse Unsafe Work,” National Employment Law Project, June 23, 2020, <https://www.nelp.org/blog/labor-secretary-scalia-wrongly-rejects-federal-role-enforcing-unemployment-rights-workers-refuse-unsafe-work/>.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Shengwei Sun, “Part-Time Working Caregivers Need Unemployment Insurance Reform,” National Women’s Law Center, June 29, 2022, <https://nwl.org/resource/part-time-working-caregivers-need-unemployment-insurance-reform/>.

²⁵ “Death on the Job: The Toll of Neglect, 2022,” AFL-CIO, April 26, 2022, <https://aflcio.org/reports/death-job-toll-neglect-2022>.

²⁶ 26 U.S.C. § 3304(a)(5).

²⁷ 26 U.S.C. § 3304(a)(5)(B).

²⁸ *Id.*

²⁹ McHugh et al., “Unemployment Insurance Policy Advocate’s Toolkit,” 35.

³⁰ “Unemployment Insurance Program Letter No. 01-96,” US Department of Labor, Employment and Training Administration, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-01-16>.

³¹ “Unemployment Insurance Program Letter No. 41-98.”

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Maya Pinto and Laura Padin, “Lasting Solutions for America’s Temporary Workers” National Employment Law Project, August 26, 2019, <https://www.nelp.org/publication/temp-workers-demand-good-jobs/>.

³⁸ “Unemployment Insurance Program Letter No. 41-98.”

³⁹ *Id.*

⁴⁰ Florida, Georgia, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New York, North Carolina, North Dakota, Tennessee, Utah, and Wyoming weaken their suitable work requirements based on the duration of unemployment. “Comparison of State Unemployment Insurance Laws 2021.”

⁴¹ For a discussion of the period of time eligible workers can claim UI benefits in states, see the policy advocacy brief on benefit duration at www.uipolicyhub.org.

⁴² 19 Del. C. § 3314(3)(d).

⁴³ 19 Del. C. § 3314(3)(c).

⁴⁴ N.Y. Labor Law § 593 (2)(c).

⁴⁵ Ohio Rev. Code Ann. § 4141.29(E)(3).

⁴⁶ “Comparison of State Unemployment Insurance Laws 2021.”

⁴⁷ 26 Me. Rev. Stat. § 1192(3).

⁴⁸ *Id.*

⁴⁹ N.Y. Labor Law § 593 (2)(a).

⁵⁰ For additional information on which states have provisions in their UI law regarding alcohol and/or illegal drugs and what testing entails, see Table 5-7, States Disqualifying for Drug and/or Alcohol Related Circumstances in “Comparison of State Unemployment Insurance Laws 2021.”

⁵¹ Michele Evermore, “On Trump DOL’s Final Rule Allowing For Drug Testing For Unemployment Benefits,” National Employment Law Project, October 4, 2019, <https://www.nelp.org/news-releases/trump-dols-final-rule-allowing-drug-testing-unemployment-benefits/>.

⁵² At least three states (Mississippi, Texas, and Wisconsin) have passed these unnecessary laws. *Id.*, 5-20–5-21.

⁵³ McHugh et al., “Unemployment Insurance Policy Advocate’s Toolkit,” 46-47.

⁵⁴ “Suitable Work SW 5,” California Employment Development Division, Reviewed September 9, 2022, https://edd.ca.gov/en/UIBDG/Suitable_Work_SW_5.

⁵⁵ Nearly all states have websites and hotlines to report UI fraud. See <https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy/UIFraudReporting>.

⁵⁶ Farooq, Kugler, and Muratori, “Do Unemployment Insurance Benefits Improve Match Quality?”

⁵⁷ See Marco Caliendo, Konstantinos Tatsiramos, and Arne Uhlendorff, “Benefit Duration, Unemployment Duration and Job Match Quality: A Regression-Discontinuity Approach,” Forschungsinstitut zur Zukunft der Arbeit Institute for the Study of Labor, December 2009, <https://docs.iza.org/dp4670.pdf>. See also Kate Bahn and Carmen Sanchez Cummings, “Improving U.S Labor Standards and the Quality of Jobs to Reduce the Costs of Employee Turnover to U.S. Companies,” Washington Center for Equitable Growth, December 21, 2020, <https://equitablegrowth.org/improving-u-s-labor-standards-and-the-quality-of-jobs-to-reduce-the-costs-of-employee-turnover-to-u-s-companies/>.

⁵⁸ Victoria Smith and Brian Halpin, “Low-Wage Work Uncertainty Often Traps Low-Wage Workers,” Center for Poverty and Inequality Research, University of California Davis, April 5, 2014, <https://poverty.ucdavis.edu/policy-brief/low-wage-work-uncertainty-often-traps-low-wage-workers>.

⁵⁹ These legislative packages sent \$666.5 billion in federal funds to workers and families experiencing unemployment as of August 2022. NELP calculations based on “Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding to States through August 13, 2022,” US Department of Labor, Employment and Training Administration.

⁶⁰ Kyle Coombs et al., “Early Withdrawal of Pandemic Unemployment Insurance: Effects on Earnings, Employment and Consumption,” Harvard Business School, August 20, 2021, https://www.hbs.edu/ris/Publication%20Files/22-046_ce11d30f-72bc-4dd6-8367-e1dce9e75154.pdf.

⁶¹ See “Last Hired, First Fired: Black, Latinx Workers and the Fight for Jobs,” New America, September 2020, <https://www.newamerica.org/pit/reports/unpacking-inequities-unemployment-insurance/last-hired-first-fired-black-latinx-workers-and-the-fight-for-jobs/>.

⁶² See “Labor Force Statistics from the Current Population Survey, 2019 Household Data Annual Averages, Table 31, Unemployed persons by age, sex, race, Hispanic or Latino ethnicity, marital status, and duration of unemployment,” US Bureau of Labor Statistics, 2019, <https://www.bls.gov/cps/aa2019/cpsaat31.htm>.

⁶³ “Labor Force Statistics from the Current Population Survey, 2021, Household Data Annual Averages, Table 31, Unemployed persons by age, sex, race, Hispanic or Latino ethnicity, marital status, and duration of unemployment,” US Bureau of Labor Statistics, 2021, <https://www.bls.gov/cps/cpsaat31.htm>.

⁶⁴ See “Reforming Unemployment Insurance, Section 4 Benefit duration,” National Employment Law Project and others, June 2021, <https://www.epi.org/publication/section-4-benefit-duration-expand-ui-benefit-duration-to-provide-longer-protection-during-normal-times-and-use-better-measures-of-labor-market-distress-to-automatically-extend-and-sustain-benefits-d/>.

⁶⁵ "UI Replacement Rates Report," US Department of Labor, Employment and Training Administration, https://oui.doleta.gov/unemploy/ui_replacement_rates.asp.

⁶⁶ A. Nicole Clowers, "COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response," US Government Accountability Office, November 2020, <https://www.gao.gov/assets/gao-21-191.pdf>.

⁶⁷ "Why the U.S. Needs a \$15 Minimum Wage," National Employment Law Project, January 26, 2021, <https://www.nelp.org/publication/u-s-needs-15-minimum-wage/>.

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