1c

Maintaining Fair Weekly Benefits Amounts

Question: How do states calculate unemployment insurance weekly benefit amounts?

Answer: Each state uses a one-year look back period to calculate eligibility. This period, usually called a *base period* or *base year*, is used to determine if the jobless worker has sufficient recent wages to satisfy monetary eligibility requirements. The standard base period in almost all states is the first four of the last five completed calendar quarters preceding the filing of the worker's initial claim. Monetary eligibility requirements vary widely, but generally require that a claimant at least earn wages in 20 weeks or roughly one and one half calendar quarters. These standards are typically expressed in terms of dollar amount or a multiple of the minimum wage (USDOL, 2015a: p. 3-4 to 3-7). Any monetary eligibility formula expressed solely in dollars discriminates against lower-wage workers (NELP, 2004: Monetary Eligibility). The best states (NJ, OR, WA) have a monetary eligibility standard that includes hours of work.

In addition, 39 states utilize an *alternate base period* when a claimant does not have sufficient wages to qualify for benefits using the standard base period (USDOL, 2015a: Table 3-2). The most common "alternate base period" is the last four calendar quarters preceding the filing of the worker's initial claim. Alternate base periods typically help recent workforce entrants qualify for benefits by considering recent wages not included in a standard base period.

Question: What are the formulas used by states to calculate weekly benefit amounts?

Answer: Once monetary eligibility is established, states have statutory formulas for determining jobless workers' weekly benefit amount and duration of benefits. In all states, a worker's weekly benefit amount (WBA) varies based on the worker's past wages so as to replace a portion of their lost wages within minimum and maximum benefit limits set by state law. In August 2015, the U.S. average weekly UI benefit was near $320. Seven states (AL, AZ, FL, LA, MS, MO, TN) had maximum WBAs below the U.S. average WBA.

Each state's UI law uses a weekly benefit formula that seeks to replace a fraction (normally at least 50%) of a worker's lost wages as measured during that worker's base period up to its maximum WBA. Most states use one of four main kind of weekly benefit formulas, each designed to ensure that benefit payments are based on that worker's customary pattern of full-time work, though some states laws provide a choice of formulas (USDOL, 2015a: Table 3-5).

In 2015, twenty-four states used the *high-quarter* formula which determines weekly benefits as a fraction of wages in the highest quarter of earnings in the base period (id.). Although most states use the same fraction of high quarter wages for all benefit levels, some favor a weighted schedule that uses a larger share of high-quarter wages for lower-wage workers. As a result, lower-wage workers get higher wage replacement levels in those states. In recent years, there have been a number of proposals to shift away from high-quarter formulas to other formulas that provide lower wage replacement for jobless workers. The latest is Arkansas, which moved away from the high-quarter formula in May 2015 and will switch to an annual wage formula.

Thirteen states used the *multi-quarter* formula which most often uses a fraction of wages in the two highest quarters in 2014. Six states use the *annual-wage* formula which bases benefits on a fraction of annual wages. Seven states use the *average-weekly-wage* formula, which uses a fraction of average weekly wages in the base period to determine benefit amount (id.). Annual wage and average weekly wage formulas can result in significantly lower benefits for all jobless workers whose earnings vary due to part-year employment or wage variations caused by fluctuating hours of employment. Notably, there is no situation in which using a weekly benefit formula other than the high quarter formula will benefit jobless workers.

Question: What is the range of minimum and maximum weekly benefit amounts in the states?

Answer: Minimum benefit amounts in the states range from $5 (HI) to $158 (WA) per week (excluding dependent allowances available in some states) in 2015 (USDOL, 2015b). Maximum weekly benefits range from $235 (MS) to $698 (MA) per week (excluding dependent allowances available in some states). State maximum benefit levels can be set as a fixed dollar amount or indexed to that state's average weekly wage. In 33 states and the District of Columbia, the maximum benefit is indexed to levels between 47 percent (IL) to 75 percent (HI) of state average weekly wages (USDOL, 2015a: Table 3-6).

Indexing the maximum WBA allows benefit amounts to grow in line with a state's wage growth and keep pace with increases in the cost of living. The bipartisan Advisory Council on Unemployment Compensation recommended in its 1995 report that states set their maximum weekly benefit to equal to two-thirds of a state's average weekly wage with durations of six months. States that don't have automatic adjustments in benefit levels must rely upon state legislatures to make adjustments, meaning that benefit levels are below reasonable levels in nearly all states that rely upon legislative adjustments of benefit levels.

Question: Can a change to a state's benefit formula amount to a cut in benefits for workers?

Answer: Yes. If a state currently using a high quarter formula moves to a multi-quarter formula or an annual wage formula, claimants can experience a significant cut in their weekly benefit amounts. Workers who work only part of the year, those who have irregular schedules, or those who have uneven earnings to due seasonal wage fluctuations are most adversely affected by such a change.

For example, if a worker with a total of $12,500 in their base period has earned $7500 in her high quarter but only $2500 in her second highest quarter, that worker could receive up to $288 per week in a high quarter formula state. Under these same circumstances in a state that uses the two highest quarters, this worker's benefit would only be $192 per week. More dramatically, the worker's benefit drops to only $120 per week in a state where the formula uses all four quarters.

The significant real-world impact of four-quarter averaging on weekly benefit levels is illustrated by Indiana. Prior to implementing four-quarter averaging in 2012, Indiana's weekly benefits averaged $295. Average benefits fell to $250 under four-quarter averaging, representing a decline of 15 percent.

Resources:

Advisory Council on Unemployment Compensation, Unemployment Insurance in the United States: Benefits, Financing, Coverage (February 1995), http://workforcesecurity.doleta.gov/dmstree/misc_papers/advisory/acuc/February_1995/adv_council_0295.pdf.

National Employment Law Project, Changing Workforce/Changing Economy, "Monetary Eligibility Chapter" (2004), http://nelp.3cdn.net/31c9039786a84cdc52_h5m6y1dsp.pdf.

U.S. Department of Labor, ETA, Office of Unemployment Insurance, Comparison of State Unemployment Insurance Laws, 2015, Chapter 3, "Monetary Entitlement," http://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2015/monetary.pdf.

______, Significant Provisions of State Unemployment Insurance Laws (July 2015b), http://workforcesecurity.doleta.gov/unemploy/content/sigpros/2010-2019/July2015.pdf.