2A

Assisting Claimants with Job Searches and Reemployment

Question: What are the general UI rules pertaining to work search?

Answer: All states have work search requirements and suitable work definitions that are intended to ensure 1) that claimants remain attached to the labor market and 2) that claimants are not forced to accept substandard jobs by UI program requirements. (Related to these two requirements are the requirement that individuals are able and available for work to maintain UI eligibility discussed in Chapter 1.) These related provisions are sometimes termed together as the *UI work test*.

Currently, two parallel developments in reemployment services are taking place at the federal and state levels; one primarily dealing with carrots and the other emphasizing sticks. At the federal level, federal grants are encouraging all states to implement Reemployment and Eligibility Assessments and Reemployment Services (REA/RES) program. The distinction between these two is that REAs are directed at ensuring that UC claimants are conducting job searches that meet UI eligibility requirements while RES helps participants with job-search counseling, assessments, testing, and referrals to job openings and/or training (Hobbie, 2015).

Clearly, the REA/RES formulation contains elements that use positive efforts to assist claimants linked with the possibility of UI benefit terminations. At the state level, Nebraska, North Carolina, and other states have moved toward higher numbers of required weekly "job contacts" combined with stricter documentation requirements. They have not chosen to provide broader positive RES services. In short, the enforcement of UI work test provisions can serve either as a carrot encouraging claimants to find work, or as a stick that primarily focuses on cutting individuals off benefits. Fortunately, there is good evidence that the carrot approach works. Unfortunately, there is trend toward using sticks without carrots in a growing number of states.

Question: What is "suitable work"?

Answer: When a jobless worker is collecting unemployment insurance federal regulations provide that an individual may limit their availability to jobs that are considered suitable for the individual as defined by state law (20 CFR Sec. 604.5). While states have varied definitions of what is considered "suitable work", their laws generally consider factors such as the risk to a worker's health, safety, and morals; the individual's education, prior training, and earnings; duration of unemployment and potential for obtaining work in one's customary occupation; and commuting distance of available work. States generally apply an analysis of these factors to each individual worker's case in determining if there is a refusal of work. If a claimant refuses a suitable job without good cause, a disqualification from UI is applied.

Question: Are there limits to how states may define suitable work rules?

Answer: Yes. Federal UI law provides guidelines related to the kinds of jobs that workers can be made to accept as suitable. The Federal Unemployment Tax Act (FUTA) provides that states must consider labor market conditions and comply with certain labor

standards in designing their suitable work laws. During times of high unemployment when state UI trust funds are strained, there can be political pressure to reduce costs by re-defining suitable work laws to make them more restrictive. Section 3304 (a) (5) of FUTA limits the type of work an individual must accept when receiving unemployment compensation. It says in relevant part:

> Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
>
> (A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;
> (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
> (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

The second of these labor standards provisions, is known as the "prevailing conditions of work" standard. It 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 take work whose conditions were less favorable than what is generally available in the locality, this could easily lead to a race to the bottom in terms of wages, hours and other working conditions.

Some newer suitable work definitions definitely violate long-accepted understandings of the intent of the prevailing standards of work provision, but, to date, no court or administrative rulings have challenged any of the new work search requirements on state benefits.

Question: What are the most common suitable work restrictions?

Answer: The most common way that states make their suitable work laws more restrictive is by expanding the types of work that are considered suitable as the duration of a claimant's unemployment increases. Most commonly, this is done by restricting consideration of suitability to a comparison of only wages and lowering the wage that would be considered suitable as weeks of unemployment pass. These revised wage comparisons can be based on the individual's prior wage, their weekly benefit amount, or even the minimum wage.

As shown in the table below, state restrictions vary widely in their specificity and severity. For example, in Idaho, individuals are required to expand their work search beyond their customary occupation and accept a lower wage as their unemployment spell drags on, without the law detailing any week or wage parameters. On the other hand, Wyoming has one of the most severe restrictions in that it considers a job that pays

50 percent of a worker's prior earnings as suitable work after only 4 weeks on unemployment. See below for more detail.

Table: Suitable Work Laws by Duration of Unemployment

State	Duration of Unemployment Suitable Work Laws
Florida	After 25 weeks, suitable work is minimum wage and 120% of weekly benefit amount
Georgia	After 10 weeks, suitable work is minimum wage and 66% of high quarter earnings
Idaho	Individual is expected to expand search beyond customary occupation and accept a lower pay rate as unemployment weeks increase
Iowa	Suitable work 100% of high quarter wage for first 5 weeks, 75% for weeks 6 – 12, 70% for weeks 13 – 18, and 65% of high quarter wage after 18 weeks
Louisiana	Suitable work is 60% of highest wage during base period
Maine	After 12 weeks, prior wage is not considered for suitable work
Michigan	Suitable work is 70% of gross pay prior to unemployment; after 10 weeks > minimum wage, prevailing mean local wage, and 120% of weekly benefit amount
Mississippi	After 8 weeks, minimum wage or prevailing wage in customary occupation
Montana	After 13 weeks, suitable work is 75% of prior wage, but not less than minimum wage
North Carolina	After 10 weeks, any job paying 120% or more of weekly benefit amount
North Dakota	After 18 weeks, suitable work is equal to maximum weekly benefit amount
Tennessee	After 13 weeks, suitable work is 75% of prior wage; after between 26 to 38 weeks, is 70% of prior wage; after 38 weeks, is 55% of prior wage.
Utah	Work more likely to be considered suitable as the individual remains unemployed for a longer period of time and as prospects of securing local employment in his or her customary occupation diminish
Wyoming	After 4 weeks, suitable work is 50% of prior compensation

Source: USDOL Comparison (2015b) at pp. 5-33 to 5-34.

Question: How do states enforce work search requirements for UI?

Answer: At one time, some states did not have explicit work search requirements for regular state UI programs relying upon availability requirements for this element of the work test. However, job search is now a federal requirement for state UI laws and those few states that did not have an explicit job search requirement have been brought into line.

One development during and since the Great Recession is that many more states have adopted specific requirements for weekly job search contacts or activities. In the past,

most states required claimants to make a reasonable effort to find work and to affirm that when claiming UI. Now, many states have adopted an approach to work search that was first applied to extended benefits in the 80s; namely, that a claimant make a required number of job contacts each week. Some states accept other job search or reemployment activities, but several accept only job contacts with employers. Nebraska and North Carolina are requiring 5 weekly contacts, while North Dakota, South Carolina, Utah, and Wisconsin require 4 (USDOL, 2015b: Table 5-15).

Question: What reasons are given for requiring stricter suitable work or job search requirements?

Answer: Proponents of stricter suitable work laws and job search rules often believe that UI benefits are preventing workers from accepting available work. They contend that tightening these rules help workers to get back to work even if it means taking lower paying work. For this reason, these restrictions are touted as UI cost-saving measures.

Question: What are the arguments against requiring strict suitable work laws and job search rules?

Answer: Strict suitable work provisions go hand in hand with stricter job search rules to undermine the ability of UI to both mitigate the economic blow of involuntary unemployment and preserve the laid-off workers bargaining ability in 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. There is little evidence that these sorts of rote employer job contact rules actually increase job finding in weak labor markets. These requirements do, however, permit states to kick non-compliant individuals off UI benefits.

For UI claimants who were previously employed in higher wage professions, the prevailing wage rate may be two to three times that worker's weekly benefit amount. Nationally, the average weekly UI benefit is just under $300, while the average weekly wage is nearly $900. By requiring a worker to accept work paying a fraction of their prior wage or risk disqualification, states indirectly depress labor standards and drive down wages for all workers. Indeed, a study in Great Britain of jobless workers before and after new work search requirements were introduced in 1996 found a negative impact on wages of those subjected to the tighter job search requirements while participating in the Jobseekers Allowance (JSA) program (a needs-based unemployment assistance program). The stricter requirements did succeed in reducing JSA benefits (Petrongolo, 2008).

Question: What is the role of the Employment Service and local one-stop Job Centers in assisting jobseekers and employers?

Answer: The public federal-state Employment Service (ES) was established in 1933, two years before the UI program was created under the Social Security Act. At its core ES is a

free, public labor exchange function in which trained ES counselors help jobseekers and employers fill information gaps. Additionally, the ES ensures that UI claimants maintain an active job search, and connects workers at greatest risk of exhausting benefits to reemployment services under the Worker Profiling and Reemployment Services program. In many states, UI claimants must register for work with ES to maintain UI eligibility. Supplementing the state ES staff, many staffers at Job Centers (one-stops), authorized under the Workforce Innovation and Opportunity Act, provide services to jobseekers as well. In summary, local one-stops, ES staff, and UI agencies are the public agencies that share responsibility both for enforcing the UI work test and facilitating reemployment of jobseekers in the U.S.

As seen earlier in this section, recent developments show renewed interest in both enforcing the UI work test and increasing reemployment services, but the mixture of sticks and carrots is left to states. A major priority for UI advocates in the coming years is developing policies that avoid excessive emphasis on the using sticks against claimants and jobseekers and instead ensure that proven tools for reemployment offer substantive assistance for these individuals.

Question: What public services have proven effective in assisting claimants find work?

Answer: Although official unemployment levels have fallen during the recovery, the current U.S. labor market features persistent levels of permanent layoffs and above-average long-term unemployment. Many older workers have left the labor market and many younger workers have failed to fully find a place in the labor market. These realities create a compelling need for updating and renewing our retraining and reemployment programs. Carrying out this renewal will help jobseekers as well as head off the spread of misguided measures that will further reduce UI recipiency without providing concrete help to jobseekers.

Reemployment services for jobseekers can include skills assessments, assistance developing a job-search plan, provision of relevant labor market and occupational information, and referrals to training and job interviews. Services are generally delivered in one of three ways—self-service, facilitated self-help, and staff assisted (McHugh, 2012). Controlled evaluations dating back to the 1980s show that early provision of staff-assisted services in combination with claimant eligibility assessments can significantly shorten UI durations and reduce benefits charges for employers (Wandner, 2010: Chapter 5).

Louis Jacobson, a long-time analyst of reemployment programs, speaks of reemployment services as fulfilling the "honest broker" role, filling information gaps for both workers and employers (Jacobson, 2009: 5). Jacobson finds that "[T]here is overwhelming evidence that One-Stops positively affect the speed of returning to work without adversely affecting the quality of new jobs. . . ." (id.: 11 n.6). (See also the discussion of job finding and job matching in Chapter 4 for further details.) These older studies have been reaffirmed in more recent program evaluations focused on Nevada REA/RES programs that proved effective during the recession (Michaelides, 2013).

Employers are the other side of the reemployment equation. And, while Jacobson's observation is mainly focused on the needs of job seekers, labor economist Peter Cappelli finds that many employers, like job seekers, need accurate information and guidance in shaping a more realistic approach to filling job openings and finding employees with sought-out skills (Cappelli, 2012). A properly resourced Employment Service can provide such assistance to employers as well as jobseekers.

Question: Doesn't contemporary job finding happen online and through social media?

Answer: While some jobseekers do fine with online job finding tools, others need help finding suitable employment and can benefit from staff guidance in their job search and individual reemployment plans. Particularly for individuals who have been displaced after long periods of steady employment, searching for work in the current market may present unprecedented challenges. Many jobseekers confront information gaps about the job search process itself. For instance, they must know about open positions, the degree to which their skills and background match the requirements of openings, and how best to present themselves to prospective employers. Some jobseekers also lack computer literacy and Internet access. Some face language barriers. All of these individuals need staff-assisted reemployment services. Services delivered solely through self-directed or online methods cannot help these jobseekers and a public labor exchange should be a significant element in assisting them.

Employers frequently complain of difficulties filling job openings. A robust public employment service can match qualified workers with openings with those employers who are seeking job matching and candidate assessment tools. Again, online resources can facilitate some job matching for employers, but in many cases employers need personal help as well. Many small employers or individual business owners can run their businesses, but they do not know how to write a job posting, where to look for qualified workers, or how to assess applicants. They can choose temp firms or other private services, but a viable public ES should be an option for employers with job openings.

As a final point, in-person job counseling services can be more effective in checking unwarranted expectations about the realities of finding work, delivering motivation, and cushioning the blow of job losses for unemployed individuals. Video, online, and classroom methods simply cannot deliver effective messages to all jobseekers.

Question: Why don't public reemployment services play a more prominent place in the U.S. labor market?

Answer: Public job matching and reemployment tools have been seriously underfinanced since the early 1980s in the U.S. In the reemployment field, economists divide policies into two main categories; passive and active. UI benefits are known as *passive labor market policies* in that they do not directly impact job finding by claimants. Another examples of passive policy would be encouraging early retirement. In contrast, job search assistance, wage subsidies, and job training are termed *active labor market*

policies because they are focused is to increase employability of jobseekers (Nie, 2014: 36-41). In the U.S., the mix between active and passive labor market has shown a higher reliance upon passive policies, and overall lower spending on both sorts of policies (id.: 41-42).

In a 2012 report, the Organization for Economic Cooperation and Development (OECD) found that spending for active labor market programs in the U.S. is less than 0.2 percent of GDP, "far lower than the levels of up to 1% of GDP observed in many other OECD countries . . . ." (OECD Survey, 2012: 62). While supporting the much-needed cushion provided by benefit extensions during the Great Recession, the OECD added that these "passive" forms of unemployment assistance would provide greater value if "offered in tandem with a more 'active' set of reemployment services that can connect job seekers with job opportunities, facilitate job search, and guide individuals towards training and education."

Beyond lack of resources, the federal-state nature of UI agencies (along with ES) makes them political orphans. Neither Governors nor Presidents view reemployment services as trendy or current, and agencies are not really located fully within the responsibilities of either level of government. UI and reemployment services are rarely seen as priorities, especially when recessions are not taking place. In addition, since the early 80s an alternative structure—the one-stop Job Centers—that operate local job programs under the WIOA law—have a separate funding stream and separate governance.

Question: How can states get resources needed to provide more effective forms of reemployment services?

Answer: Lack of sufficient federal funding and limitations on uses of those funds have led at least 25 states to develop their own sources of reemployment services and workforce training funds through small state payroll taxes. A majority of these state resources are used for agency administration, reemployment services, or limited forms of training. Employers in these states have accepted state taxes for these activities because this added state funding addresses priorities set within each state without the restrictions that accompany federal UC and ES administrative dollars and Workforce Innovation and Opportunity Act (WIOA) funds.

A common way to implement these state taxes is to "piggyback" a small, state payroll tax on top of the existing state UC payroll tax. (The size and use of each of these piggyback taxes is discussed in the U.S. Department of Labor's Comparison of State UC Laws at Table 2-17 of its financing chapter (2015a).) As a review of this table shows, at least 25 states use these supplemental state taxes to augment UI and/or ES administrative funding and most fall in the range of 0.1 to 0.2 percent of taxable payroll.

Richard Hobbie of the Heldrich Center and Yvette Chocolaad of NASWA (the state association of employment security agencies) calculated that states provided $222 million in funding to augment federal administrative funds for UC and ES in fiscal year 2013 (Hobbie, 2015: 57). This is a considerable amount and shows that many states find these services significant enough to tax their own employers for funding reemployment services and UI administration.

In terms of using these state resources for providing RES services, Oregon is a state that has long used state resources to provide reemployment services focused on UC claimants. In program year 2012, Oregon referred 31% of its claimants to employment, not quite doubling the national average for claimant job referrals (17%). Other states currently using state resources for RES for UC claimants include DE, NV, NY, and RI. Additional states, including GA, WA, and WI use existing federal funds to provide RES focused on UC claimants.

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