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Avoiding Waiting Weeks

Question: What is a "waiting week" in state unemployment insurance laws?

Answer: The "waiting period" or "waiting week" is a common feature of unemployment insurance (UI) laws. A waiting week occurs during the first week of a new spell of unemployment when a jobless worker satisfies all the requirements for eligibility, but does not receive any benefit payment for his/her first week of unemployment. As a result, unemployed workers that exhaust UI benefits draw their last payment (often the 26th and final payment) in their 27th week of unemployment in states with a waiting week. Claimants who do not exhaust benefits (varying in duration, but usually 26 weeks) are effectively denied one week of benefits in states with waiting weeks. This reduces benefit payment costs.

For the 12 months ending in August 2015, 60 percent of benefit recipients found work prior to exhausting benefits. In states with a waiting week this is tantamount to reducing 60 percent of claimants' UI benefits by one week. The average duration of a UI claim in 2015 was 15.8 weeks.

Question: How many states have waiting weeks?

Answer: Eight states had no waiting week in 2015, meaning that 43 states have waiting weeks (USDOL, 2015: Table 3-7). All but one of the remaining states have a waiting period of one week's duration. North Carolina has an initial waiting week, but also imposes an additional waiting week each time a claimant reactivates a claim following new employment within a benefit year. In a few states, if a worker remains out of work past some specified number of weeks, the week of benefits withheld during the waiting week is paid.

Question: What reasons are given for having waiting weeks?

Answer: The main argument for waiting weeks is as a means of reducing costs of UI programs. Those supporting waiting weeks typically point out that workers get a paycheck in the week following their layoffs and can better afford a week without income at that stage in their period of unemployment. Another argument is administrative convenience. In the early days of unemployment insurance, there was concern that paying benefits for longer durations would not be affordable, so waiting periods of two, and even four weeks, were found in state UI laws. In addition, it was not possible to pay claims rapidly in the early days of UI programs, so the delay was administratively necessary.

By the 1960s, no state had a waiting period over one week in length and a few states had no waiting week. As prompt claims payment became more important and states became better equipped through automation to issue monetary determinations more expeditiously, more states repealed waiting weeks. By 1980, a majority of states did not have waiting weeks.

Congress passed an amendment to the federal-state Extended Benefits law in 1980. At that time, states without waiting weeks became financially responsible for paying 100 percent (rather than 50 percent as usual) of the first week of Extended Benefits. In the next year, 16 states adopted a waiting week. Since the early 1980s, there has been limited legislative activity on waiting weeks. Wisconsin added a waiting week in 2011. Vermont and Delaware added waiting weeks in recent years, but both are scheduled to sunset in 2017.

Question: What are the arguments against waiting weeks?

Answer: Waiting weeks have outlived their intended purposes. Waiting weeks were originally adopted primarily because states required a delay at the start of a new claim during which agencies processed UI claims manually to determine the wages needed to calculate a benefit rate. There is no continued vitality to this rationale. All states, have wage information available electronically and it is administratively feasible to timely pay UI benefits for the first week of unemployment.

Most individuals working for a living do not have sufficient savings to sustain their families' spending for essential goods and services in the event of job loss. It runs counter to the purpose of the program to start every worker's bout of unemployment by destabilizing their family finances. The purpose of UI is to provide prompt replacement of lost wages, not to drive jobless workers deeper into financial crisis. While waiting weeks may generate substantial savings to a UI trust fund, jobless workers get no waiting week on their rent payments, mortgages or utility bills. Jobless individuals and their families already wait 21 days or more to get their first UI check with an uncontested claim.

Most state UI programs replace only half of worker's pre-layoff wages at most, with workers who receive maximum weekly benefits getting even lower wage replacement. As a result, weekly benefits replaced on average less than one third of pre-layoff wages for US workers. Therefore, asking families to suffer the additional burden of losing even that meager level of income replacement for an additional week is a recipe for hardship in many cases.

The public policy underlying UI programs is to boost the economy by maintaining consumer spending during layoffs. Reducing benefits by one week for all workers who do not exhaust benefits means that more than half of the individuals who drew unemployment benefits lost one week of benefits.

Finally, the argument that states without a waiting week must fully finance the first week of Extended Benefits (EB) has also lost its vitality since 1980. The EB program has been largely ineffective since the 1980 changes because the economic thresholds to trigger benefits have been set too high. As a result, EB seldom triggers on and the vast majority of extension benefits during recessions have been paid from special programs enacted by Congress and have been fully federally funded. In short, the financing advantage promised to states with waiting weeks has seldom come into play in the 35 years since it was enacted.

Resource:

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