

Provide UI Benefits for Workers Who Must Leave Jobs Due to Family Hardship



What is it?

All states provide UI benefits to some workers who must leave a job for good cause, but many states require that the reason for leaving be caused by an employer's action. The result in most states is that workers, disproportionately women workers, who must leave their jobs because of urgent family needs are ineligible for unemployment insurance benefits. States can help strengthen families by allowing workers who had to leave their last job for family or personal reasons to receive unemployment insurance while they are looking for new work.



Key arguments in favor

Providing benefits to those who must leave work due to family responsibility closes the gender gap. There is a significant gender gap in receipt of UI benefits: in 41 states, unemployed male workers are more likely to receive benefits than are unemployed female workers. While women are in the workforce in huge numbers, they also bear the brunt of family responsibilities. State policies restricting what counts as good cause for leaving a job are a major reason that women often are ineligible for unemployment benefits. Providing benefits to workers who must leave jobs due to family responsibilities can narrow this gap.

Women are more likely to leave work for family reasons, but less likely to receive UI. According to a Texas study, women are three times as likely as men to become unemployed because of family responsibilities. Nationally, 23 percent of unemployed women left their last job because of pregnancy, childbirth or other family or personal reasons, while only six percent of unemployed men gave those reasons for their job loss. At the same time, adult women who leave their jobs, (as opposed to being fired or laid off), are one-third less likely to receive UI benefits than are men who leave their jobs.

Providing benefits to those who must leave work due to family responsibility is consistent with the history and goals of the UI system. Unemployment compensation benefits are paid to those workers who are involuntarily unemployed, in order to compensate them for short term job loss and to help them remain attached to the labor force. Workers who must adjust work schedules or locations to accommodate family needs – such as illness, child and elder care, or the transfer of a spouse or partner – are forced to leave jobs for reasons beyond their effective control. In the early days of the UI system, personal reasons were considered good cause for a worker's job separation, but state laws have become more restrictive since then. In the 1940's, 41 of 48 states allowed workers to leave their jobs for valid personal reasons; in 2004, only 15 states do so.

Examples of when a worker is available for work under family hardship provisions

Even in states that recognize family hardship as good cause for leaving work, a worker cannot receive UI unless she or he is able and available to work. Sometimes a worker might be immediately available for other work while, at other times, the worker is only available after the family emergency is resolved or normalized.

Example 1. A worker who must leave her day-shift nursing job due to lack of child care plans to work nights so that she and her spouse can alternately provide complete child care coverage. This worker must remain available for night work, but since she had good cause for leaving her job, she can receive UI while looking for night work in an industry with night work available.

Example 2. A worker leaves a full-time job to care for her mother who is dying of cancer. Because of the caregiving demands, she is not able and available for employment and cannot receive UI. Three months later, after her mother has died, the worker is available for and looking for work. Now she is able and available for employment and can receive UI during her job search.

Persons who leave work due to compelling family reasons must still search for work in order to receive UI. A working mother or father who leaves work due to family reasons is not exempted from looking for, and accepting, available jobs. An individual cannot receive UI for any time when he or she cannot to work at all due to a family emergency. Nor can an individual qualify for UI if she or he is not available for suitable work. The job search and suitability provisions of the law ensure that families cannot take themselves out of the labor force completely, or unreasonably limit their availability to work.



Key arguments against and responses to them

Opponents say: Providing benefits to workers who have to leave work due to family conflicts is too costly.

Response: In most states, benefits are not charged to an individual employer's account, but spread out evenly among all of the employers in the state.

Opponents say: Providing benefits to workers who have to leave work due to family conflicts rewards those who are not working.

Response: Those states that provide unemployment benefits to workers who leave their jobs to take care of a compelling family situation still require workers to be actively looking for work and to accept a suitable position that reasonably accommodates family responsibilities. These states remain focused on getting workers back to work, while taking into account their family needs.



Which states do it?

Sixteen states have general provisions that allow workers to separate from jobs for good cause and qualify for UI, either because personal emergencies such as family responsibilities are specifically included in the definition of good cause or because the definition of good cause is not restricted to exclude family hardships.

State Choices

7 states use unrestricted good cause

Alaska
Hawaii
Nevada
New York
Oregon
Rhode Island
Virginia

9 states allow personal emergencies including family responsibilities as good cause

Arizona
Arkansas
California
Kansas
Maryland
Massachusetts
Nebraska
Pennsylvania
Utah



In addition to these general good cause provisions, many states have enacted specific provisions allowing a worker to qualify for UI when job separation is due to a specified family or personal reason: illness or disability (including pregnancy), relocation of a spouse or domestic partner, domestic violence, child care or elder care conflicts, or sexual harassment. (Model legislation for some of these provisions is addressed in this chapter; for others, see, *Between a Rock and a Hard Place*, National Employment Law Project.)

Model legislation

California

(b) Good Cause. A claimant leaves the most recent work with good cause if the claimant left work due to circumstances relating to the health, care, or welfare of the claimant's family of such a compelling nature as to require the claimant's presence, and the claimant has taken reasonable steps to preserve the employment relationship. CAL. CODE REGS. tit. 22 § 1256-10

North Carolina has adopted a more incremental approach to some of the family hardship issues, by enacting a state law that covers persons who leave work because of a disability or health condition of the worker or a family member:

(1) Where an individual leaves work due solely to a disability incurred or other health condition, whether or not related to the work, he shall not be disqualified for benefits if the individual shows:

a. That, at the time of leaving, an adequate disability or health condition of the employee, of a minor child who is in the legally recognized custody of the individual, of an aged or disabled parent of the individual, or of a disabled member of the individual's immediate family, either medically diagnosed or otherwise shown by competent evidence, existed to justify the leaving and prevented the employee from doing other alternative work offered by the employer which pays the minimum wage or eighty-five percent (85%) of the individual's regular wage, whichever is greater; and

b. That, at a reasonable time prior to leaving, the individual gave the employer notice of the disability or health condition.

N.C. GEN. STAT. § 96-14

References

Katherine Allen, Maurice Emsellem & Lois Shaw, *The Texas Unemployment Insurance System: Barriers to Access for Low-Wage, Part-Time and Women Workers*, National Employment Law Project, Institute for Women's Policy Research (1999).

Rick McHugh, Nancy Segal, Rebecca Smith & Andrew Stettner, *Between a Rock and a Hard Place: Confronting the Failure of State Unemployment Insurance Systems to Serve Women and Working Families*, NATIONAL EMPLOYMENT LAW PROJECT, (July 2003), available at <http://www.nelp.org>.

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