

Use Fair Monetary Eligibility Tests



What is it?

All states require an unemployed worker to have a minimum level of prior work experience to qualify for unemployment insurance. Most states translate this monetary eligibility requirement into a minimum dollar amount based on a worker's past earnings. Most states require workers to achieve a set amount in a single quarter of earnings. The result of such dollar earnings tests is that a low-wage worker needs to have worked more hours than a high-wage worker in order to qualify for UI. Almost all states also use a test that ensures that the earnings are not all based on a short period of employment. However, some of these state measures can penalize workers with uneven earnings by disqualifying them from UI because of earnings fluctuations.

States should use fairer tests of work history to ensure workers are not penalized for low wages, or for a period of higher wages. States should allow workers who have worked a sufficient number of hours to receive UI. States should not penalize workers with fluctuating earnings.



Key arguments in favor

Low-wage workers should not be required to work more hours to meet UI eligibility tests. Almost all states require workers to earn a specific dollar amount to qualify for UI. In addition, most states require workers to earn a specific amount in their high quarter. For example, New York requires that a worker have at least \$1,600 of earnings in one quarter plus at least \$800 of earnings in other quarters for a minimum of \$2,400 total earnings overall in the base period (1.5 X \$1,600). A minimum wage New Yorker would have to work 311 hours (25 per week) to satisfy the \$1,600 requirement in the high quarter but a \$10/hour worker would only have to work 160 hours (12 per week).

The high-quarter element of many state eligibility formulas often creates barriers to UI receipt for low-wage workers. Imagine if New York required workers to earn the \$2,400 over two quarters but did not require a specific high-quarter multiple. In that scenario, someone who had worked 20 hours per week at the minimum wage (\$1,300 per quarter and \$2,600 total) would qualify for UI.

The most common eligibility formula is also biased against workers with uneven earnings. A worker who has a successful quarter with full-time work and overtime wages can have a wage record with one quarter of earnings far higher than other quarters. Thus, someone who has worked many hours in one quarter but far fewer hours in other quarters might be disqualified simply because the high-earnings quarter sets a high bar. Continuing the example of New York's one and one-half times high-quarter earnings requirement, a worker working continually, and sometimes overtime, during the high quarter might

earn over \$6,000 for that quarter but not reach \$3,000 in other quarters before being laid off. A worker could be laid off after 20-30 weeks of work yet be disqualified from UI solely due to the requirement that additional earnings equal at least half of the high-quarter earnings and even though he or she had otherwise sufficient total dollar earnings to qualify. In effect, the worker is penalized for having worked more hours in the high quarter.

Some 42 states use either a “high-quarter” or a “multiple of weekly benefit amount” formula to measure whether a worker has a sufficient work history to qualify for UI. When a state uses a high-quarter system to determine weekly benefit amount, and then uses a multiple of the weekly benefit amount to set the monetary eligibility earnings requirement, the state system contains the same unfairness inherent in high-quarter earnings formulas.

Measuring total hours of work ensures fairer treatment for low-wage workers. A few states allow workers to prove their labor force attachment if they have worked a minimum amount of hours – regardless of the wage rate. The “hours of work” test is superior in that it does not discriminate on the basis of wages, nor does it lead to capricious disqualification based on distribution of earnings.

Flat earnings tests avoid the distortions of high quarter requirements. Similarly, states that use a flat annual total earnings requirement prevent distortions described above that can occur in a high-quarter or multiple of weekly benefit amount system. All flat earnings amount states require earnings in two separate quarters to demonstrate significant labor force attachment. While not necessarily fairer to low-wage workers in terms of hours required to work, flat earnings rules do give low-wage workers more time to accumulate the necessary earnings.

States can use hours of work or flat earnings requirements as their main monetary eligibility formula or as a supplemental option for those workers that fail the primary test. For example, an Oregon worker who fails to qualify under the state’s primary high-quarter formula can still qualify if he or she has worked a total of 500 hours during their entire base period year. Oklahoma use a 1.5 times high quarter rule but has an alternative flat-amount requirement of \$10,500.



Key arguments against and responses to them

Opponents say: Earnings requirements are already too low.

Response: The Congressionally-appointed Advisory Council on Unemployment Compensation recommended that states set their high-quarter earnings standards at no more than 200 times the minimum wage (which would require an average of 15 hours of work per week in a quarter). Twenty-two of the 40 states with a high-quarter based requirement require that earnings be at or above this level. Thus, workers cannot qualify for UI without significant workforce attachment. Moreover, because UI benefit amounts are based on prior earnings, workers with few earnings or hours get a very limited amount of unemployment benefits. These small amounts of benefits are neither costly nor a deterrent to re-employment.

State Choices

3 states use an hours test

Oregon
Washington
New Jersey

10 states use a flat earnings test

Alaska
Illinois
Indiana
Maine
Michigan
Missouri
Nebraska
New Hampshire
Oklahoma
West Virginia



Which states do it?

Three states use an hours of work requirement as part or all of their monetary eligibility test so that low-wage workers are not penalized. At least 10 states use a flat earnings requirement as part or all of their monetary eligibility test so that workers with uneven earnings are not penalized.



Model legislation using hours of work

Oregon

(2)(a) To qualify for benefits an individual must have: (A) Worked in subject employment in the base year with total base year wages of \$1,000 or more and have total base year wages equal to or in excess of one and one-half times the wages in the highest quarter of the base year; (2)(b) If the individual does not meet the requirements of paragraph (a)(A) of this subsection, the individual may qualify for benefits if the individual has worked a minimum of 500 hours in employment subject to this chapter during the base year.

OR. REV. STAT. § 657.150



Model legislation using flat earnings requirement

Alaska

(a) An individual who is paid at least \$1,000 in wages during the individual's base period for employment covered by this chapter is eligible to receive benefits under this chapter if those wages were paid in at least two of the calendar quarters of the individual's base period.

ALASKA STAT. § 23.20.350



Watch Out For: 20-weeks Requirement

In recent years, a number of states have debated a proposal to introduce an additional “20-weeks” requirement. Such a law requires that a worker have earnings in at least 20 weeks to qualify. Proponents claim that a 20-week requirement reflects national UI standards. Here are some arguments against proposals to limit UI eligibility in this way:

- 20 weeks is not the current national standard and represents an added requirement that would exclude some jobless workers from UI. Neither the 1.5 times the high-quarter formula, nor the 40 times the weekly benefit amount formula directly translates into a 20-weeks standard. Under these common

current rules, a worker who worked 10 weeks in their highest quarter and then five in a subsequent quarter could qualify for UI in many states. Under a 20-weeks requirement, the same worker could not receive UI.

- Several states have proposed increasing their requirement to 40 times the weekly benefit amount as an alternate way to reach a requirement akin to a 20-weeks standard. Under a 40 times WBA standard, however, a worker with an exceptionally high quarter of earnings could easily work for more than 20 weeks and still not qualify. This problem is most likely to occur for low-wage workers who qualify for less than the state maximum.
- Others advocate for a strict standard of 20 documented weeks of work. Counting the number of weeks actually worked adds an extra burden of administration, and is more strict than what is currently in practice. Neither federal commission studying UI benefits has recommended a 20-weeks standard. The National Commission on Unemployment Compensation agreed that “to be eligible for the maximum duration of benefits, the minimum requirement should not be less than 14 weeks.”



Watch out for: Seasonality Restrictions

Twelve states arbitrarily limit the eligibility of some or all seasonal workers for unemployment insurance by providing that the wage credits earned in seasonal employment can be used for payment of benefits only during the operating period of the employer or industry in which the worker was employed. For example, a food processing worker employed from May through September may only use the base year credits he or she has earned if unemployed during the following May through September. The result is that unemployment insurance is not available to a worker when he or she may need it the most.

Seasonality restrictions in UI penalize workers because of the nature of the work they do; that is, work that varies with the seasons. These jobs are seasonal because of the nature of the employer’s business. Even without restrictive UI seasonality policies, workers who are laid off at the end of a season can only collect UI if they have sufficient work history and earnings (monetary eligibility) and if they search for work during the off season. Moreover, even if they qualify for UI, the workers collect only a percentage of their wages in UI benefits. UI programs should not further discriminate or limit their eligibility for benefits.

References

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION, FINAL REPORT at 38 (July 1980).