Introduction [to Nonmonetary Eligibility in State Unemployment Insurance Programs]

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Introduction

Unemployment insurance programs offer financial assistance to insured workers who have recently been separated from their jobs—usually involuntarily—and who have a continuing attachment to the labor market. Unemployment insurance (UI) is meant to provide income to workers deprived of their jobs through no fault of their own, and who would be employed if they were able to secure a suitable job. To ensure that benefits are paid only to claimants who have substantive attachment to the labor market and who are unemployed through no fault of their own, state UI programs specify both monetary eligibility requirements, pertaining to past employment and wages, and nonmonetary eligibility requirements, pertaining to the circumstances of job separation, claimants’ continuing availability for work, and their willingness to accept it. Past employment and continuing availability for work are viewed as evidence that an individual has been and continues to be attached to the labor market and, if out of work, should be considered unemployed.

This study focuses on nonmonetary eligibility rules and their effect on the rates at which UI benefits are denied. It examines the variety of state laws and practices concerning nonmonetary requirements, and the effect of these laws and practices on the ability of states to identify and reject UI claimants who fail to meet the requirements. The rates at which claimants are denied benefits based on nonmonetary eligibility rules are used as a measure of the performance of states in enforcing adherence to the rules. Claimants may be
denied benefits under these rules due to "separation issues" (the circumstances under which they left their last job) or to "continuing eligibility" issues (their availability for work, willingness to accept work, and search for employment).

Nonmonetary denial rates are one measure of the effectiveness of the UI program in minimizing payments to individuals who do not meet nonmonetary eligibility standards, but they are not a perfect measure. Denial rates are certainly influenced by the effectiveness of a state agency in detecting claimants whose circumstances or actions make them ineligible. However, the frequency of payments to ineligibles may also be affected by factors whose impacts are not reflected in denial rates, such as policies which discourage individuals from applying for benefits at all when they doubt their own eligibility. Thus, low denial rates do not necessarily indicate a failure to deny payments to ineligibles, nor do high denial rates indicate success. They are, however, the major source of information on the outcomes of agency efforts to bar payments to ineligibles. Moreover, available data can be broken down into the separate rates at which issues are detected and at which benefits are actually denied, and are available for each reason for denial. They can thus be examined in detail and compared with quite specific characteristics of state policy and administration.

The motivation for this study lies in the wide variation in the states' nonmonetary denial rates and a corresponding diversity in state laws, regulations, and procedures that deal with nonmonetary eligibility. Our aim has been to identify aspects of state UI laws and regulations, and approaches for enforcing nonmonetary eligibility requirements administratively, that seem to affect the rate at which claimants are denied benefits. Establishing relationships between methods for applying nonmonetary rules and denial rates may offer some help to states in their efforts to respond to
fiscal pressures and concerns about the accuracy of program eligibility decisions.

This introductory chapter points out some of the variety in state laws and practices that deal with nonmonetary eligibility, and the way in which this diversity reflects continuing debate about the appropriate goals of the UI program. Despite this diversity, all states have had to address concerns about the accuracy of program administration, particularly given the severe fiscal drains on program funds in recent years. The ways in which these demands have been felt and met are briefly described. Finally, as background to the detailed analysis presented later, this chapter explains the structure of nonmonetary eligibility rules.

**A. Approaches to Nonmonetary Eligibility: State Variation**

Like most aspects of unemployment insurance, non-monetary eligibility rules and their administration reflect the policy decisions, political attitudes, and economic conditions of the individual states. Despite the general framework of federal law on unemployment insurance, the variety of approaches adopted by states demonstrates a continuing lack of consensus on the appropriate strictness of UI eligibility decisions.

Because state UI programs are part of the federal-state system, they are constrained by federal standards, but they do retain wide discretion over their laws and practices. Federal law on nonmonetary eligibility deals primarily with two concerns: it defines and protects the substantive rights of claimants when a UI agency questions their availability or ability to work or their refusal of job offers, and it defines their procedural rights in determinations or fair hearings. In other respects, federal standards allow the states wide latitude.
The variety of state approaches to nonmonetary eligibility rules and their enforcement illustrates the persistent tension between two competing views of the program: as a benefit program to protect employees, and as an employment stabilization program, paid for by employers to respond to their needs. Of course, all state UI programs in fact respond to both views, but differences in UI law and administration suggest that patterns of public attitudes and political influences vary from state to state.

Much of the diversity among state programs is revealed only by a detailed examination of administrative practices and regulations, because on the surface the states' UI laws sound similar themes. One purpose of this study was to uncover these differences; for the sample of states included in this study, the variety of regulations and administrative enforcement will be explained in later chapters. However, some brief examples of the divergences among state programs at this point can demonstrate why the inquiry into the effects of administrative variation on denial rates is of interest.

In their UI laws, the states adopt different approaches for defining the circumstances under which claimants should be denied benefits. For example, in some states, claimants who leave a job voluntarily can immediately receive benefits only if they left with a "good cause" that was directly related to the conditions of employment (e.g., dangerous work conditions). In other states, a variety of "compelling personal reasons" are considered good cause for leaving a job, including such reasons as following one's spouse to a new location or caring for an ill household member. The strictness with which states insist that an individual be able to work also varies. Some states base benefit denial on whether the worker is able to perform any type of gainful work that exists in the job market, while other states base benefit denial on whether claimants are in adequate health to work at oc-
ocupations for which their past experience and skills suit them. Penalties for quitting or refusing a job also vary widely among states, from relatively brief delays of as little as five weeks in benefits to disqualification for the duration of unemployment, to requirements for a subsequent period of new employment before a new spell of benefits can be claimed.

Beyond differences in their laws, the states adopt quite different approaches for detecting noncompliance with eligibility requirements. Consequently, the effective strictness of nonmonetary requirements differs even between those states whose UI laws are similar. Some states, for instance, require claimants to search for jobs on their own and to report their contacts with employers, and disqualify claimants who fail to report a sufficient number of contacts. In other states, active job search may be required, but little effort is made to monitor claimants’ efforts. Some states adhere to clear schedules for conducting personal eligibility review interviews, at which agency staff examine in detail the job demands set by claimants and their efforts to find work; other states conduct these interviews only sporadically and selectively.

The net effect of differences in laws and administration is that some states appear “liberal” and others “strict” in applying nonmonetary eligibility standards to claimants. Some states appear to tolerate paying benefits to individuals whose reasons for unemployment are not clearly involuntary, and whose continued attachment to the labor force might appear tenuous. In other states, the concerns of employers who pay for UI benefits appear to have led to stricter standards and closer attention to enforcement.

Nonetheless, states do not typically resolve UI policy issues once and for all. In most states, the definition of UI program rules—and thus the balance between competing in-
terests in the program—is a matter of continuing debate. Revisions to UI law are a frequent subject of legislative bills debated each year. As political attitudes, economic pressures, and the composition of a state's industrial base and workforce change, new issues emerge that appear to call for program adjustments. The definition and enforcement of nonmonetary eligibility standards are part of this continuing debate.

B. Pressures to Tighten Nonmonetary Eligibility

Whatever the normal balance that is struck in various states between employers' and employees' interests in the UI program, all UI agencies are faced with shifting financial and political pressures on their programs which can lead to changes in the definition and enforcement of eligibility rules. Economic conditions change for better or for worse, relieving or aggravating concerns about the balance between UI tax revenues and benefit disbursements. Evolving public attitudes about relying on government assistance programs may modify the balance of political pressures on state legislatures. Attention to the general administrative integrity of governmental programs, and their ability to carry out the intent of the legislature accurately, intensifies at times, particularly when administrative problems appear to contribute to a deterioration in the financial stability of a benefit program.

The condition of the economy is clearly the primary external factor that affects UI trust funds and can focus attention on ways to make the eligibility process more restrictive. In times of recession, more unemployed workers draw benefits from the trust fund, and declines in employer payrolls reduce tax payments into the trust funds. In response to trust fund problems, states can raise UI taxes, curtail benefit levels, and tighten both monetary and nonmonetary eligibility standards.
Severe strains have been placed on UI trust funds by the recessions of the mid-1970s and the early 1980s. These strains are starkly depicted by the relationship between trust fund reserves and benefit payout rates. At the end of 1969, the "reserve ratio multiple"—the ratio of trust fund reserves as a percentage of covered payrolls to total benefits paid as a percentage of covered payrolls—exceeded 1.5 in 34 states and exceeded 1.0 in 16 other states. Ten years later, 38 states had reserve ratio multiples of less than 1.0. During the recessions of 1980 and 1981-1982, 32 states saw their trust funds go into the red at some point and were forced to borrow from the federal UI trust fund. 2

The precarious condition of UI trust funds that resulted from the recent recessions stemmed at least in part from benefit eligibility policies and employer tax policies that combined to deplete trust funds far more rapidly than they could be replenished. Trust fund problems have been exacerbated in some states by past trends towards liberalizing benefit levels and eligibility conditions and narrowing the definitions of employer tax liabilities. Although reserve balances are expected to be drawn down in recessions, the plunges in fund balances that occurred in these recent recessions were unprecedented. The deterioration of state trust fund reserves has prompted state legislatures, UI agencies, and the federal government to focus renewed attention on the financing of the UI program, the monetary and non-monetary rules under which claimants qualify for benefits, and the integrity and rigor with which eligibility standards are administered.

One indication of the heightened concern about program integrity is the attention that has been focused on ways to improve the accuracy of UI claim actions. State UI programs routinely conduct their own efforts to detect levels and patterns of overpayments that are caused by erroneous decisions
about or inaccurate information on monetary or non-
monetary eligibility rules. In recent years, the U.S. Depart-
ment of Labor initiated the Random Audit program, a pilot
program to improve the monitoring of error rates and the
sources of error in eligibility decisions. Federal concern for
ensuring accurate measures of program errors has subse-
quently led to preliminary preparations for an expanded
quality assurance program designed by the Department of
Labor, which is scheduled to be implemented in 1986.
Another example of recent attention to program administra-
tion, and specifically to nonmonetary eligibility, is the South
Carolina Claimant Placement and Work Test Demonstra-
tion. This demonstration, funded by the Department of
Labor, was designed to reduce UI payments by strengthening
the UI work test, increasing job placements for UI
claimants, helping claimants search for jobs, and improving
the exchange of information between the Job Service and UI
offices concerning claimant eligibility issues.

Federal incentives for improving state trust fund balances
have also been strengthened, encouraging states to reex-
amine not only their nonmonetary eligibility rules but also
their tax rules, benefit levels, and monetary eligibility re-
quirements. Under recent legislation, loans from the federal
UI trust fund to debtor states now carry interest charges.
States that enact legislation to improve their trust fund
solvency, either through benefit reductions or tax increases,
can limit federal penalty taxes, defer interest payments, and
receive reductions in interest charges on outstanding debts.
States, particularly those with the most severe trust fund
deficits, have responded with program changes. All eight
states with the largest debts in 1982 passed important legisla-
tion between 1982 and 1984 to deal with solvency.
C. Nonmonetary Eligibility Rules

Qualification for UI benefits is based in all states on two sets of criteria—monetary and nonmonetary. Monetary requirements are imposed as part of the initial eligibility process when individuals request benefits, and pertain to their record of past employment and wages. Nonmonetary requirements are imposed for both initial and continuing eligibility. Monetary qualification issues are not within the scope of this study; they are discussed in this report only in connection with disqualification penalties for nonmonetary issues that require reestablishing monetary qualification.

Initial nonmonetary eligibility rules are codified in each state’s definition of “negative disqualifying actions”—those actions or behavior by claimants which, if found to be the cause of job separation, would be cause for benefit denial. These include voluntary quits, misconduct, involvement in labor disputes, and fraudulent misrepresentation. Claimants disqualified under these rules may not receive benefits during a defined nonentitlement period, whose length is fixed for some issues in some states and is subject to some administrative discretion in others.

Continuing eligibility rules require two positive conditions—the availability for and the ability to work—and the absence of one negative action—a refusal to accept available and suitable work. Failure to satisfy either of the first two conditions makes claimants ineligible only as long as they remain “unavailable” or “unable” (with a one-week minimum period of ineligibility). Unwillingness to accept available suitable work leads to disqualification for a specified period defined in each state’s statutes. Compliance with all of these conditions is required for continuing benefit entitlement.
The process of identifying noncompliance with either initial (i.e., separation) or continuing (i.e., nonseparation) eligibility standards is called "eligibility determination." The first step of the determination process is "fact-finding"—collecting information from the claimant and other interested parties. Fact-finding is followed by a formal review or hearing and a decision about whether or not to deny benefits, depending upon the merits of the case and the interpretation of the rules. In some instances, informal fact-finding may precede this process, but claimants cannot be denied benefits without undergoing a formal determination. Determination decisions can be appealed to separate appeals units within the state UI agency. In most states, there are actually two levels of appeals possible, although most appeals go no further than the first level (or "lower authority").

Although all state programs share these basic elements of nonmonetary eligibility policy, wide variation exists in the details of their eligibility rules, the level of detail and precision achieved in their legislation and regulations, the rigor and consistency with which they enforce rules, the methods they use to detect nonmonetary issues, and the procedures they use for fact-finding and for formulating determination decisions. The wide diversity among the state programs in nonmonetary eligibility rules and practices is evidence of the relatively modest role of federal legislation in this aspect of unemployment insurance, the wide latitude granted to the states, and the variety of political, economic, and managerial factors that help define and implement the program.

**D. Overview of the Study**

We approached this study on the influences of state laws, regulations, and procedures on nonmonetary denial rates in two ways. The first was to use available published data to
analyze the statistical relationships between denial rates and the characteristics of state laws. Two sets of variables were used for this analysis. One set consists of denial rates for the four standard denial reasons—voluntary leaves or quits, misconduct, not able or available, and refusal of suitable work. These rates were used as outcome variables. The other set—used as explanatory variables in the statistical model—consists of easily identifiable provisions of state UI laws, quantifiable descriptors of the administration of non-monetary eligibility rules, measures of the generosity of state UI programs, and descriptors of the economy and other characteristics of each state. As described in chapter 2, a regression analysis based on quarterly state data covering the period from 1964 through 1981 revealed certain relationships between these explanatory variables and denial rates. Nevertheless, this statistical analysis inevitably left many questions unanswered, and served primarily to point out the necessity for (and direction of) further investigation. In particular, our limited ability to characterize state programs with available published data meant that a great deal of the variation in denial rates remained unexplained by the equations estimated with our model.

Thus, the second approach taken in the study was an "administrative," or "process," analysis in selected states. Our objective was to investigate state policies and practices in greater detail than was possible with published data, in order to (1) differentiate more clearly and precisely the variation in policies and administrative practices across states, and (2) discover how the laws, regulations, and administrative practices that create the "effective policy" influence patterns of nonmonetary eligibility and denial rates.

To conduct the process analysis, project staff selected six states for intensive site visits, and collected data from relevant documents and in-person interviews with key in-
dividuals in state UI agency offices and field offices. This ef-
fort was designed to gather information about the full range
of factors that determine actual policy as implemented in the
states, and to do so by examining the UI program in each
state from a variety of perspectives. Chapter 3 describes the
process analysis methodology.

Generalizing from a study with only six judgmentally
selected states is difficult at best, although the states were
selected carefully to ensure that a range of program models
was represented. Nevertheless, this portion of the study did
produce a rich body of information that enables us to
distinguish among different approaches to administering UI
programs, including their major statutory, regulatory, and
procedural features. Although identifying relationships be-
tween these features and the differences in nonmonetary
eligibility rates requires a high degree of judgment, we feel
that we have identified several key relationships and have ob-
tained some evidence to suggest others. Chapter 4 presents a
basic description of state program characteristics which con-
stitute the "raw" data of the process analysis. Chapter 5
then returns to the main focus of this study to evaluate what
we have learned from the process analysis about the effects
of state policies and procedures on nonmonetary eligibility.
NOTES


4. For a discussion of these issues, see Wayne Vroman, *The Funding Crisis in State Unemployment Insurance* (Kalamazoo, MI: W. E. Upjohn Institute for Employment Research).