

Expanding Part-Time Eligibility

Question: Why is UI important for part-time workers?

Answer: In 2015, just over 18 percent of the workforce was working part time (BLS, 2015a: Chart 8). This constitutes over 25 million individuals. There are many characteristics of these part-time workers that suggest that their welfare is a matter of concern to proponents of economic justice. In short, part-time workers are disproportionately a) female, b) poverty-impacted, and c) minority employees. In terms of UI programs, there are several program features that result in low benefit receipt by part-time and low wage workers. As mentioned earlier, GAO has reported, using SIPP data, that low-wage workers are more than twice as likely to experience unemployment as higher-wage workers, but about half as likely to receive UI benefits (GAO, 2007, 2000).

Within the ranks of the 9.2 million working poor individuals in 2013 (employed for 27 weeks or more), 4.9 million were full-time workers, while 4.2 million were part-time workers. This translates to 15.8 percent of part-time workers classified as working poor, while only 4.1 percent of full-time workers were working poor (BLS, 2015b: Table 1). The majority of the working poor employed for 27 weeks or more were women, with 5.4 million women workers falling below the poverty level as compared to 5.0 million men in 2013. Blacks and Hispanics were over-represented among the ranks of the working poor in 2013, with 2.35 million Blacks (or 13.3 percent of all Black workers) and 3.03 million Hispanics (12.8 percent of Hispanic workers) (id., Table 2).

A useful frame for analysis of part-time workers is to differentiate part-time workers by their status as primary or secondary wage earners. According to Luke Shaefer of the University of Michigan, the proportion of part-time workers who are primary wage earners has grown steadily since 1970, reaching 36 percent in 2007 (Shaefer, 2009). Shaefer's analysis of CPS ASES data found that primary part-time earners worked 44.7 weeks (as compared to 49.7 weeks for full-time employees) (id., Table 4). Despite this substantial participation in the labor market, 47.5 percent of part-time primary earners had incomes below 150 percent of the federal poverty line. In comparison, only 10.1 percent of part-time secondary earners had incomes less than 150 percent of poverty levels. Shaefer credits the persistence of 1950s employer practices; namely, that most were married women who did not support families, with the realities of 21st century part-time primary earners. As we'll see later, similar gendered assumptions about part-time workers are at the root of existing UI rules limiting access to part-time wage earners.

In summary, part-time workers represent a significant element within the working poor and they disproportionately include women and minority workers. These workers receive benefits less frequently due a number of factors, including UI eligibility requirements. Given the significant number of part-time workers in our labor market and their low receipt of UI benefits, reforms targeting part-time workers represent an important arena for future expansion.

Question: What is “availability for work” and why is it a significant barrier to receipt of UI for part-time workers?

Answer: All states require that claimants maintain “availability for work” as a condition of UI eligibility. Restrictive rules about availability for claimants who must work less-than-full-time or wish to do so are certainly a major barrier to receipt of UI for part-time workers.

Availability rules require that UI claimants demonstrate their continuing willingness to work while claiming benefits (USDOL, 2015: 5-24). As a formal matter, availability includes both objective and subjective elements that are applied on an individual basis to each claimant. The objective element of availability concerns the days and hours of the week during which a claimant is willing to work, the geographic areas where the claimant is willing to work, and the kinds of jobs a claimant is willing to accept. In other words, “does a market exist for the services this claimant is offering?” The subjective element involves assessing a claimant’s willingness to work and diligence in seeking work based upon the individual’s statements and behavior. In sum, “Does the claimant want to work?” (Williams, 1955).

Limitations on overall work hours, times of day, or days of the week imposed by health, disabilities, caregiving responsibilities, or other factors can prevent claimants from receiving UI benefits in any state. In addition, most states have specific rules regarding part-time availability that add barriers to UI eligibility. Related to availability rules, all states define suitable work and require that claimants seek suitable work.

Question: What is the breakdown of states concerning part-time availability rules?

Answer: In 2015, only 10 states (listed in the first column of the table here) have broad availability rules that assess availability for part-time workers under the same policies as those applied to full-time workers. Of these ten, D.C. and Rhode Island permit workers with good cause to restrict their availability to part-time work. This is functionally equivalent to the practices of the other eight states permitting part-time availability on a parity basis with full-time workers. In all but these 10 states, significant restrictions on part-time availability remain.

Twenty states (listed in the second column of the table) have adopted an exception that gives claimants with a past history of part-time work an opportunity to limit their availability to part-time work when they are laid off.¹ However, this exception does not apply to individuals who previously worked full-time but due to changed circumstances need to restrict their availability. Examples of situations not covered by the past-history exception are women who worked full-time prior to having a child who would like to limit their search to part-time jobs upon reentering the labor market or full-time workers

¹A number of states adopted past history exceptions under UI Modernization that was encouraged under the American Recovery and Reinvestment Act of 2009. Other states had previous versions of past history provisions. Any provision relating to part history availability is counted here.

who have a spouse or dependent who presents major caregiving obligation forcing them to leave work, but who wish to reenter the labor market on a part-time basis once that initial crisis has passed. In short, the past history exception is far from an answer to part-time availability limitations.

The remaining 21 states (listed in the third column of the table) require full-time availability. Full-time availability is imposed through a combination of statutory requirements, regulations and rules, and court decisions. In 2002, NELP determined that only 8 states had explicit full-time availability requirements in their state UI laws (Georgia, Indiana, Maine, Michigan, New Hampshire, New Mexico, Washington, and West Virginia) (McHugh, 2002: 4). The remaining restrictive states with statutory silence concerning full-time availability, administrative agencies and courts could, in theory, limit or abandon these requirements without legislative action.

Question: What are the arguments against restrictive part-time availability requirements?

Answer: There are good reasons why states should eliminate restrictive part-time availability requirements.

In terms of gender equity, restrictive part-time rules arose at a time when employers assumed that women workers were married and for that reason did not need health insurance, pensions, or other fringe benefits (Shaefer, 2009). Similar gendered assumptions; namely, that married women worked only to supplement family income and were less firmly attached to the labor market than men undergird concerns about part-time availability, pregnancy, and other special measure directed at female claimants (Haber and Murray, 1965: 271-276). Haber and Murray’s study of the issue rejected these concerns; reasoning that UI is an insurance program, is not paid on the basis of need, and is not dependent upon an individual’s reasons for working. They concluded their discussion by stating, “This means that women should continue to have equal rights to benefits.” (Id., p. 274).

In 1963, the President’s Commission on the Status of Women issued a comprehensive review of the political and social status of women in the U.S. In its analysis of social insurance it included this overview of the rationale for restrictions on UI eligibility directed against women:

[S]tatutory, administrative, and judicial limitations have, over the years, restricted the protection of women against loss of income that this program was originally intended to cover. The restrictive decisions seem to assume that all women are secondary workers, loosely attached to the job market, who work only to supply the household with extras. In this view, men are considered the primary workers, and concentrated attention is given to preventing women from drawing unemployment benefits on the ground that they work sporadically without seriously looking for continuous employment.

(President’s Commission, 1963: 42.)

Part-Time Availability 2015			
State	Part Time Availability Permitted or Permitted With Good Cause	Part Time Availability Permitted w/ Part Time Work History	Availability for Full Time Work Required
Alabama			●
Alaska			●
Arizona			●
Arkansas		●	
California	●		
Colorado		●	
Connecticut			●
Delaware	●		
Dist. of Columbia	●		
Florida	●		
Georgia		●	
Hawaii		●	
Idaho		●	
Illinois			●
Indiana			●
Iowa		●	
Kansas		●	
Kentucky			●
Louisiana	●		
Maine	●		
Maryland		●	
Massachusetts	●		
Michigan			●
Minnesota		●	
Mississippi			●
Missouri			●
Montana		●	
Nebraska		●	

Part-Time Availability 2015			
State	Part Time Availability Permitted or Permitted With Good Cause	Part Time Availability Permitted w/ Part Time Work History	Availability for Full Time Work Required
Nevada		●	
New Hampshire		●	
New Jersey		●	
New Mexico			●
New York		●	
North Carolina		●	
North Dakota			●
Ohio			●
Oklahoma		●	
Oregon			●
Pennsylvania	●		
Rhode Island	●		
South Carolina		●	
South Dakota		●	
Tennessee			●
Texas			●
Utah			●
Vermont		●	
Virginia			●
Washington			●
West Virginia			●
Wisconsin			●
Wyoming	●		
TOTAL	10 states	20 states	21 states

Although more than 50 years have passed since the President’s Commission report, its UI recommendation remains uncomfortably relevant today:

We believe that benefits should be afforded women on the same basis as men, with adoption of realistic measurements of attachment to the labor market which would prevent benefit payments to persons of either sex who seek work only sporadically. (Id., 43).

Additional equity concerns about special rules directed at part-time availability extend beyond their impact on part-time women workers. They include that part-time workers’ wages are subject to UI payroll taxes just as those of full-time workers, making restrictions upon their benefit receipt unfair. Their employers are paying premiums on their wages so denying UI raises a concern about equity for both part-time workers and their employers. This observation leads to another; that is, for every part-time worker there is a part-time employer who wishes to employ him or her on that basis. When the part-time worker becomes involuntarily unemployed, why should benefits be denied if they are payable under the same circumstances for full-time workers? Part-time workers are filling a need from employers in our economy and denying them benefits when laid off unduly punishes them simply for their part-time status. Next, since many part-time workers are disproportionately lower-income workers, part-time availability restrictions hurt workers who most need UI support for job searching and immediate household needs.

Rather than requiring full-time availability, a fairer policy is to consider all availability issues on an individual basis, and render those individuals who do not demonstrate available for a sufficient number of jobs ineligible while paying UI to those who do. Ten states employ this approach and that number should grow.

Resources:

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Amy Chasanov, “Clarifying Conditions for Nonmonetary Eligibility in the Unemployment Insurance System,” U. Mich. J.L. Reform vol. 29, pp. 113-114,126-127 (1995-1996)

Margaret M. Dahm and Phyllis H. Fineshriber, “The Issue of Part-Time Employment,” National Commission on Unemployment Compensation, Studies and Research (Vol. I), p. 29 (1980), http://workforsecurity.doleta.gov/dmstree/misc_papers/advisory/ncuc/uc_studies_and_research/ncuc-vol1.pdf.

Government Accountability Office (GAO), “Unemployment Insurance: Low-Wage and Part-Time Workers Continue to Experience Low Rates of Receipt,” GAO-07-1147 (September 2007), <http://www.gao.gov/assets/270/266500.pdf>.

----- (GAO), “Unemployment Insurance: Role as Safety Net for Low-Wage Workers is Limited,” GAO-01-181 (December 29, 2000), <http://www.gao.gov/products/GAO-01-181>.

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- Lee G. Williams, Eligibility for Benefits, Vanderbilt Law Review, vol. 8, pp. 286 at 294 (1955).
- U.S. Department of Labor, Office of Workforce Security, Comparison of State Unemployment Insurance Laws, Chapter 5, "Nonmonetary Eligibility," (July 2015), <http://workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2015/nonmonetary.pdf>.