

EXECUTIVE SUMMARY

The percentage of unemployed workers receiving unemployment insurance (UI) benefits varies substantially across the 53 program jurisdictions (50 states, the District of Columbia, Puerto Rico, and the Virgin Islands). State UI policies and implementation practices, especially regarding *non-monetary* UI eligibility, might explain some of the differences in UI reciprocity rates among states. Whereas monetary eligibility rules are used to determine if a worker had substantial attachment to the labor market prior to applying for benefits, non-monetary eligibility criteria ensure that UI applicants are involuntarily unemployed and remain attached to the labor force. Non-monetary eligibility criteria are divided into two categories. Separation policies explore the reason for the job loss. To receive benefits, the worker must be involuntarily unemployed or voluntarily unemployed for good cause. Non-separation policies examine whether the worker is able to work, available for work, and in most states, actively seeking work.

The Department of Labor (DOL) funded this study to explore the relationship between non-monetary eligibility policies and practices and program outcomes, such as reciprocity and benefit duration. This report provides an examination of the factors that appear to affect program outcomes in eight states: Four “high reciprocity” states (Delaware, Maine, Pennsylvania, Washington) and four “low reciprocity” ones (Arizona, South Carolina, South Dakota, Utah). We explored policies and practices specific to separations, non-separations, and appeals of separation and non-separation decisions using information collected from documents supplied by the states, as well as from interviews conducted during site visits to each of the eight states. We examined the information obtained for this study within the context of existing research on factors that affect UI reciprocity and benefit duration.

A. Conceptual Model

Exhibit ES.1 depicts The framework used to guide this study. As this exhibit shows, a number of factors—state policies, state processes, intermediate outcomes, and program outcomes—interact. Each state has established policies regarding UI eligibility (column 1). The state processes define the steps and actions that claimants take to apply for UI benefits and remain eligible (column 2). Both policies and processes can affect the rate at which states detect issues (and raise determinations) and deny claims (column 3); they also affect appeal rates. In turn, these intermediate outcomes affect UI reciprocity and duration (column 4).

In addition, there are a number of factors not related to non-monetary issues that should be considered in understanding the variation in UI reciprocity across states. These include state monetary eligibility policies, state population demographics, the predominant industries in the state, the levels of unionization in the state, and state economic conditions.

Exhibit ES.1: UI Non-monetary Issues: Areas of State Variation

1	2	3	4
State Non-Monetary Policies	State Non-Monetary Processes	Intermediate Outcomes	Program Outcomes
<ul style="list-style-type: none"> • Written policies that can be legislative or administrative and define initial and continuing eligibility <p>Examples:</p> <ul style="list-style-type: none"> ➤ Acceptable reasons for quitting job ➤ Definition of job search ➤ Definition of suitable work ➤ Penalties for non-compliance with non-monetary policies <ul style="list-style-type: none"> • Practice (e.g., consistency, interpretation of non-monetary rules) 	<ul style="list-style-type: none"> • Written or unwritten processes that direct claimant flow through the UI system or staff activities <p>Examples:</p> <ul style="list-style-type: none"> ➤ UI benefit filing procedures (e.g., in person, telephone) ➤ Procedures for demonstrating job search (e.g., face-to-face, mail in log) ➤ Procedures for examining validity of claim (e.g., fact-finding process) <ul style="list-style-type: none"> • Practice (e.g., consistency of interpretation of non-monetary rules) 	<ul style="list-style-type: none"> • Determination rates • Denial rates • Appeal rates 	<ul style="list-style-type: none"> • UI reciprocity rates • Duration of benefits
<p>Other state factors (not related to non-monetary practices) that affect outcomes Monetary eligibility policies and practices, population demographics, predominant industries, levels of unionization, and economic conditions.</p>			

B. Key Findings

Prior research indicated that much of the state-level variation in UI reciprocity is due to policies, processes, and practices that are not easily captured by administrative data. Thus, many of the questions we explored during the site visits focused on how UI programs operate at the ground level and how variation between the programs helps explain some of the variation in outcomes across states. The report’s key findings with respect to separation issues, non-separation issues, and appeals are summarized below.

1. Separation Issues

The nature of the job separation is important in determining eligibility for benefits. When an individual applies for benefits, UI staff explore the facts surrounding his or her job separation. In particular, staff examine the following separation issues: Was the applicant laid off? Did the applicant quit? If so, did the applicant quit for good cause? Was the applicant discharged? If so, did the discharge involve misconduct? We hypothesized that state variations in three key steps—

determinations, adjudication, and decision making—affect program outcomes, namely reciprocity.

Determinations. Each state has in place administrative procedures to detect failure to meet non-monetary eligibility criteria. When an issue arises that leads UI to assess eligibility and results in the issuance of a formal decision, it is referred to as a *determination*.¹ The literature suggested that a state's reciprocity rate depends on its effectiveness in detecting non-compliance issues. In other words, a state's determination rate is associated with its reciprocity rate.

- Based on site visits and analysis of the data, we found that, consistent with the literature, our low reciprocity states have higher overall determination rates.

Much of the literature suggests that separation determination rates are a function of how wide a net states cast in order to detect issues related to UI eligibility. Thus, when one observes an association between separation determinations and reciprocity rates, it is natural to assume that it is the state's ability to detect issues that affects its reciprocity rate. However, we did not find variation in the policies or procedures states used to detect separation issues; in all of the study states, any claimant who quits or was fired raises an eligibility issue. We found that the determination rate relates to a number of factors that affect UI applications. These include the state economy, the state's mix of industries, union representation, and claim filing method.

- Our findings suggest that states with low determination rates have more UI applicants who lost their jobs; that is, they tended to have higher-than-average unemployment rates, a high proportion of unemployed workers in construction or manufacturing industries, and high union representation (which also reflects the proportion of the labor force in industries sensitive to economic change). We also found that factors that increase the applicant pool, such as policies that make filing claims easier (e.g., call centers) tended to be associated with higher determination rates. States surmise that call centers lower the cost of applying for benefits (e.g., there is no need to travel to a local office and wait in line), thus increasing the number of applications among marginal candidates.

Fact-finding and Adjudication. Once UI staff detect a separation issue, the next steps in the process are fact-finding and adjudication. The states visited use a range of approaches to these activities. In some states the functions are centrally located in one call center. In others, adjudicators are dispersed across multiple call centers or local offices. States vary in terms of whether fact-finding is conducted over the telephone or in person, and the extent to which employers and claimants are asked to fill out paper work (e.g., questionnaires). In all states, adjudicators assess statements from both claimants and employers.

- Variations in fact-finding and adjudication processes in the eight study states were minor. The differences identified were related to the location of the adjudication unit, the types of staff involved in fact-finding (e.g., adjudicators and/or intake workers), and the methods for collecting information (e.g., mailing questionnaires to all claimants and employers, scheduling phone or in-person meetings with clients). Staff suggested these differences were unlikely to systematically affect determinations or decisions to approve or deny benefits. Thus, the effect on reciprocity is also minimal.

¹ In some instances, issues are resolved informally and thus not included in the determination rate.

Benefit Denial. Once adjudicators conclude fact finding, they must make a decision to grant or deny benefits. Adjudicators use state laws, administrative rules and court precedent to make decisions on claims. Our site visits revealed considerable variation among the statutes and rules that guide states' decisions on voluntarily quits. There were more similarities in laws and rules for dismissals due to misconduct.

- State policies differed systematically for voluntary quits and are related to denial rates. The three states that had more lenient policies surrounding quits (Arizona, Pennsylvania, and Utah) in that they accepted personal reasons for quits (e.g., caring for a family member) had lower denial rates than states that allow quits only for specific work-related reasons (South Carolina, Delaware, and South Dakota).
- Conversely, we did not see much variation in state policies for misconduct. Denial rates for misconduct were similar across seven of the study states and lower than rates for quits in all states. Adjudicators noted that decisions are often difficult in misconduct cases because the statutes and rules provide less guidance than for voluntary quits. Also, employers, who have the burden of proof in discharge cases, often do not provide adequate information to justify benefit denial.

Conclusion. At the outset of this study, we hypothesized that high reciprocity states would have lenient policies and practices relative to low reciprocity states. Instead, we found that the relationship between separation policies and practices and reciprocity is more complicated.

- Factors unrelated to separation policies, such as the economy, the mix of industries in the state, and use of call centers, affect the determination rate because they likely influence who applies for benefits.
- The fact-finding and adjudication processes do not differ significantly and are unlikely to affect the reciprocity rate.
- States vary considerably in their voluntary quit policies. States with more lenient policies have lower denial rates.
- State policies do not differ significantly for misconduct. Denial rates were similar across seven of the eight states.

2. Non-Separation Policies and Practices

Non-separation policies and practices play an important role in determining whether UI claimants initially qualify for UI benefits and continue to receive them. Claimants must meet a diverse series of non-separation requirements that are intended to ensure that they are attached to the labor force and engaged in active efforts to become reemployed. The non-separation requirements and the manner in which they are enforced vary substantially across states. We examined six issues related to work search requirements as well as how states define and treat disqualifying income. Our findings regarding non-separation policies and practices are summarized below.

Work Registration. Work registration is the process whereby a claimant registers with the Employment Service (ES). This process typically involves completing a registration form that includes background information about the claimant, desired employment, employment history, education, and other information pertinent to job placement. Work registration of claimants usually occurs at the time of or within roughly a week of filing an initial claim. Only one state

(Pennsylvania) did *not* require claimants to register with the ES as a condition for receiving UI benefits. In the other seven states, some or all claimants are required to register with the ES.

- In our interviews, the work registration process was not identified as a major factor affecting either reciprocity rates or duration of benefit receipt. States also noted that claimants generally comply with work registration rules. This is not surprising, as the process generally requires (at most) a short visit to a local UI office or one-stop to complete a registration form and (in some instances) meet with UI staff.

Able and Available Requirements. To initiate a claim and continue to receive UI benefits, claimants have to be both “able” to work and “available” for work. The purpose of the “able and available” requirement is to ensure that claimants are both physically able to work in suitable employment and that they are available to work for each benefit week in which UI is received. UI programs capture information for making decisions on whether claimants are able and available at the time the initial claim is taken and when claimants submit continuing claims for each new week of UI benefits. In addition, “able and available” issues may be identified at the time of eligibility reviews and through statements taken from employers.

- The basic requirements of being “able and available” are fairly similar across the states we visited and did not vary according to whether a state has high reciprocity or long benefit duration. In terms of ability to work, all of the states stipulate that claimants must be physically and mentally capable of working at a job for which they are qualified. In addition, states bar individuals from collecting benefits if they are on vacation or otherwise unavailable for work for some part or all of the week for which benefits are claimed. In three of the eight states (Arizona, South Carolina, and Utah) claimants must be available for full-time work. To be eligible for UI benefits during a given week, claimants must have arrangements for transportation and child care, which permit the individual to accept offers of employment.

Refusal of Suitable Work. When an offer of employment is rejected by a claimant and comes to the attention of the UI system, adjudicators must render a decision as to whether the claimant rejected what might be considered an appropriate (suitable) job offer. Rejections of offers of suitable employment are usually detected through self reports of claimants when they file for continuing benefits. Refusals of suitable work may also come to the attention of UI staff during eligibility reviews or from contacts with employers.

- States use a variety of factors to determine “suitability,” making it difficult to distinguish between more stringent and less stringent states. Factors considered include past wages, past training and work experience, and length of unemployment. However, the low determination rates relating to suitable work (a much smaller portion of determinations than for able and available issues) suggest that such requirements have at most very modest effects on the duration of benefit receipt. According to UI staff, they rarely learn when claimants refuse an offer of work and thus have no basis to make a determination in this area.

Job Search Enforcement. Job search requirements are intended to keep claimants actively engaged in efforts to secure work and end their UI spell prior to exhausting benefits. Job search requirements, which typically require claimants to make a specific number of contacts with prospective employers per week, are enforced in varying degrees by UI agencies. With the exception of Pennsylvania, the states we visited require active job search by claimants. Acceptable methods are those that are considered to be customary and appropriate to the

occupation and industry for which the claimant is qualified and seeking employment. UI programs enforce job search requirements at two points in the process: (1) when claimants file continuing claims, they are asked if they have conducted an active job search and may be asked to furnish the number or actual contacts made; and (2) during eligibility reviews (if states conduct them), claimants may be asked about the number of contacts they have made and, in some cases, to produce a log to verify that actual contacts were made with employers.

- More rigorous job search requirements appear to be linked with shorter duration. For example, South Dakota and South Carolina, which had perhaps the most stringent enforcement of job search requirements, also had the shortest duration among the study states. However, job search requirements must be monitored to be effective. It is difficult to disentangle the effects of states' job search requirements and their enforcement through eligibility reviews.

Eligibility Review Interviews. Eligibility Review Interviews (ERIs) provide UI programs with an opportunity to periodically review the ongoing eligibility of claimants. Potential issues which may be a part of the ERI include able and available status and adequacy of job search efforts. We found considerable variation across our study states in the extent to which they use ERIs to determine continuing eligibility of claimants. Two states (South Carolina and South Dakota) are much more rigorous in their use of ERIs than the other study states, calling in claimants multiple times to discuss their benefits. At the time of our visits, three states (Maine, Pennsylvania, and Utah) did not conduct ERIs with claimants to determine continuing eligibility. The other three states had some form of ERI, but the timing and methodologies employed varies considerably.

- Frequent eligibility reviews appear to be linked to shorter benefit durations (and lower reciprocity rates). The two states (South Carolina and South Dakota) with the most stringent ERI requirements had the highest share of eligibility reviews conducted as a percent of claimant contacts and also had the shortest duration among the study states. In contrast, the three states with no eligibility review requirements were among the states with the longest duration (Pennsylvania, Maine, and Utah).

Profiling. All states were required to institute worker profiling procedures to identify claimants most likely to exhaust their benefit entitlements and provide them with information and services to help them become reemployed. Profiling services typically involve reporting to a local UI or ES office for an orientation to available employment, training, and ES services. Usually these are one-to-two hour group orientations. They may also include discussions about effective job search strategies and how to obtain job leads.

- A number of state and local UI staff questioned whether the intensity of the profiling services offered (usually limited to a brief workshop and/or one-on-one meeting with an employment counselor) was sufficient to affect whether claimants became reemployed before their benefits expired. In addition, if a state conducted frequent eligibility reviews, there was some question as to whether profiling services added much value to services already being provided.

Treatment of Disqualifying Income. Disqualifying and deductible income—such as earned income, severance pay, pensions/annuities, and holiday, vacation, and sick pay—can affect claimants' initial and continuing eligibility for UI, as well as their weekly benefit amount (WBA). We found substantial variation across the eight study states. All states deduct some portion of earned income, above an initial disregarded amount, from the WBA. States vary in

terms of the amount disregarded and the amount/percentage of earned income above the threshold that is deducted from the WBA. Half of the states deduct severance pay from the WBA. Most of the states in our sample had provisions relating to deductibility of vacation, holiday, and sick pay for purposes of determining claimant eligibility and/or WBA. Pension, annuities, and retirement pay in all eight states are deductible in some form from WBA.

- State and local UI officials that we interviewed did not point to deductible and disqualifying income as key factors driving either reciprocity or duration of benefits. Those states that are more stringent in deducting earned income, severance pay, and vacation/holiday pay may delay the onset of benefit receipt, particularly where lump sum payments are prorated across initial weeks of benefit receipt. Additionally, more stringent rules with respect to deductions result in lower weekly benefits, which may create less incentive for the claimants to initiate claims and continue to pursue benefits. By the same token, the rules with regard to deductible income are fairly complex. It is not clear that claimants fully understand the rules even once they begin receiving benefits, thereby negating potential effects.

Conclusion. Our review of non-separation policies and practices indicates that enforcement of job search requirements and use of eligibility reviews are likely the most important non-separation policy tools that affect reciprocity rates and/or duration. For job search requirements, the actual enforcement mechanism is more important than the specific language governing “able and available,” refusal of suitable work, or the job search requirement itself (as long as the state has a job search requirement). States with stricter job search requirements and enforcement of their policies not only create and monitor higher expectations for job search, but also identify related non-separation issues when claimants are called in to review their job search logs. These states had shorter benefit duration and lower reciprocity rates.

3. Appeals

The Social Security Act provides claimants with the right to appeal the denial of benefits, and all states also provide employers the right to appeal adverse decisions. In some states, when an appeal is filed the original decision can be “reconsidered” before the appeal is processed. All study states have two levels of appeals, generally referred to as “lower authority” and “higher authority” appeals. Parties dissatisfied with the results after exhausting the administrative appeal process can file suit in a state court.

Lower Authority Appeals. In all states, claimants initiate a majority of lower authority appeals - although the share varies widely. Lower authority appeals most commonly deal with separation issues. The procedures for lower authority claims are similar but not identical across the study states. All states accept written appeals, and, other than Delaware, all accept appeals filed by at least one other means as well. All eight states have time limits for filing lower authority appeals. The setting for lower authority hearings varies among states. In some states a UI official called a referee hears lower authority appeals; in others the official is referred to as an administrative law judge (ALJ). More often than not, the hearing officers are attorneys, although some states did not require the officials to be attorneys. Lower authority hearings in the states we visited are all de novo (i.e., the presiding officer begins collecting evidence anew, and only evidence introduced at the appeals hearing is used to render a decision). In four of the states in our sample, a majority of the hearings are conducted over the telephone.

Higher Authority Appeals. Four of the study states have three-to-five member boards that review lower-level appeals, three states have UI commissions for higher authority reviews, and

one state uses appeals to the Secretary of Labor for its higher authority review. Most of the states rarely or never hold hearings where new evidence is presented for the higher authority review; Delaware is the only one of the eight states that holds hearings in a majority of the cases. In all states, parties that remain dissatisfied can file suit in court, and court decisions can be appealed to a higher state court. Staff we spoke with universally said that court involvement was extremely rare.

Empirical Analysis. In an effort to gain more understanding about how appeals are related to intermediate and program outcomes, we computed correlation coefficients between three appeals-related variables² and six background variables³ and the reciprocity rate for 2001 data for the 53 UI jurisdictions. Our analysis suggests the following tentative conclusions:

- The greater the share of lower authority appeals filed by employers, the lower is the UI reciprocity rate.
- The proportion of lower authority appeal decisions favoring workers is not associated with the reciprocity rate.
- There is a statistically significant negative correlation between both separation and non-separation denial rates and the share of lower authority appeal decisions favoring the worker. That is, higher denial rates for both separations and non-separations are associated with a lower share of lower authority appeals favoring workers.

We also calculated an adjusted denial rate for the 53 jurisdictions that reflects lower authority and higher authority decisions.

- For the nation as a whole, the denial rate dropped 1.5 percentage points (from 63.3% to 61.8%). Only one of the study states—Delaware—experienced a drop of over 4 percentage points. Although we do not know the reasons why, staff in Delaware indicated that the higher authority body there might be favorably inclined toward claimants.

Conclusions. All study states have both lower authority and higher authority appeal options. The structure of the lower authority appeals processes (e.g., in person hearings versus telephone hearings, use of an ALJ or a referee) does not appear to affect appeals rates. With regard to higher authority appeals, states use different entities for reviews. Only Delaware holds hearings in most cases.

The effect of appeals on the denial rate appears to be a relatively small reduction in the proportion of claims that are denied. Delaware is the exception, where the denial rate drops 4.4 percentage points.

C. Implications for Future Research

To understand further how state policies might affect UI program outcomes, the above analysis suggests areas for future research. These include:

² Lower authority appeals as a percent of determinations, share of lower authority appeals initiated by employers, share of lower authority appeals favoring workers.

³ Unemployment rate, separation determination rate, percent of workers represented by unions, separation denial rate, non-separation denial rate, percent separation determinations where claimant quit.

Factors that affect state separation determination rates. Research suggests that reciprocity is related to determination rates. We found that our low reciprocity states did in fact have higher determination rates. However, a number of factors appear to be associated with a state's applicant pool, which affects the determination rate. These include industry mix, union representation, the unemployment rate, and the claim filing method. Future research should explore the relationship between these factors, the determination rate, and UI program outcomes.

Variation in state voluntary quit policies. We found that state policies differed systematically for voluntary quits but not misconducts. Among our study states, there was a clear association between "stringent" quit policies and reciprocity. Those states that allowed quits only for narrow work-related reasons had higher denial rates and lower reciprocity rates. Research should explore state variation in this non-monetary policy.

Enforcement of work search requirements. Strict enforcement of the work search requirements, such as frequent eligibility review interviews (ERIs), appears to be associated with shorter benefit duration in our study states. Further research should be conducted to ascertain whether this association is true for most states. Moreover, some states in our sample discontinued ERIs. Research could explore whether most states continue ERIs and, if so, their frequency. For states that discontinued the practice, it would be interesting to compare benefit duration post-ERI to duration pre-ERI, holding other factors constant (e.g., economic conditions). Another area that merits further exploration is the association between work search enforcement and the shift to call centers. The adoption of call centers has the effect of removing clients from the local offices and decreasing their contact with UI and employment service staff. Are call center states more likely to discontinue ERIs? Finally, which state entities have the primary responsibility for enforcing the work search (i.e., UI, the employment service, workforce development programs)? Has this changed in states that adopted call centers?