



# Equity in Unemployment Insurance Law and Policy

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# *Defining Terms*

**Equity:** The state, quality, or ideal of being just, impartial, and fair

**Fairness** consists in treating equals equally, and unequals unequally.  
(Aristotle: Per Brad DeLong)

# *UI Law in Brief*

- UI benefits are paid “of right” to those deemed eligible and not disqualified under state UI law
- Laid off individuals with monetary eligibility (labor market attachment” are “involuntarily unemployed” and if “able and available” can file claims and draw UI benefits
- Those otherwise eligible who are separated from work for reasons other than layoff are not disqualified so long as they are not shown to be voluntarily unemployed
- Involuntary unemployment is legal keystone: Fault of either employer or claimant is not a controlling consideration



# *Goals of UI Program*

1. Provide prompt partial income replacement for involuntarily unemployed workers
2. Automatically maintain consumer spending and prevent ripple effects from layoffs on communities and businesses
3. Promote attachment of jobless workers to the labor market and support job search
4. Accumulate payroll tax funds during economic recoveries to pay benefits during economic downturns

# *Defining Equity in UI Law and Policy*

## **Working Assumption:**

*Equity requires that similarly situated jobless individuals and employers should get roughly similar treatment under UI programs in the absence of compelling reasons that justify different treatments*



# *Equity and Low Wage Workers*

- 2000 GAO Report: Low-wage workers were twice as likely to be out of work as higher-wage workers, but only half as likely to receive UI benefits as high wage workers—a finding that applied in states with both high and low reciprocity rates

# *Equity for Part-Time Work*

- 21 states paid UI benefits to part-time workers in 2002, including 8 states treating part-time work on an equivalent basis with full-time work
- 14 states passed UI modernization part time option (past history of at least 20 hours per week), and a total of 28 states now have fairer rules for part time worker eligibility
- Since part time employers want to fill part time jobs and must pay UI payroll taxes on those wages, what is rationale for not paying benefits to involuntarily unemployed part-time workers for UI?



# *Equity for Low-Wage Work*

## 1. **Low Taxable Wage Bases**

- Many states have low taxable wage bases subjecting employers paying low wages and employees earning low wages to proportionally higher tax burdens
- This implicates both horizontal equity (similar employers should not pay different tax burdens simply because they are located in different states) and vertical equity (taxpayers with different abilities to pay should pay different rates of taxes)

# *Equity for Low-Wage Work*

## 2. Monetary Eligibility

- All states but Oregon, Washington, and New Jersey use earnings tests to measure monetary eligibility (labor market attachment) and these tests necessarily disadvantage lower wage workers as compared to high wage workers employed on identical schedules
- Many low wage workers are part-time workers or part-year and seasonal workers; most monetary eligibility tests favor steady work schedules (1.5 times HQW)

# *States with Lowest Maximum WBAs—July 2010*

<b>State</b>	<b>Maximum WBA</b>	<b>% Poverty Guideline for 3</b>	<b>% SAWW</b>
<b>Mississippi</b>	\$235	67%	37%
<b>Arizona</b>	\$240	68%	30%
<b>Louisiana</b>	\$247	70%	32%
<b>Alabama</b>	\$265	75%	36%
<b>Florida</b>	\$275	78%	35%

# *Equity for LEP Workers*

- Many workers have Limited English Proficiency (LEP) and low wage workers are disproportionately LEP workers
- Neither states nor USDOL have made accommodating LEP workers a priority
- Fundamentals like notices in main languages found in workforce, translations at administrative hearings, and technology access in more languages than English should be put in place

# *Role of Equity in UI Policy Analysis*

- UI policy analysis is dominated by focus on efficiency of UI and “optimal” UI, especially over last 3 decades
- Unlike much tax and educational policy analysis, consideration of fairness or equity in UI programs is too rare and, if mentioned, is usually subordinated to efficiency or cost concerns
- Equity is valid criterion in UI policy analysis that is underutilized

# *Future Policy Applications on Low Wage Equity*

- Fixing low wage equity eligibility issues, other than benefit adequacy, is modest cost since low wage workers do not draw high benefits for long durations
- Accessibility in terms of technology, claims filing, appeals, and customer services is a fertile field for providing increased equity for low wage workers