



Unemployment Insurance Rules Fail Workers with Volatile Job Schedules

Millions of Americans, especially those in low-paying jobs, have work schedules that fluctuate wildly from week to week. These schedules, provided with little advance notice, vary by both total hours and shift times. Oftentimes, individuals remain on call for work that doesn't materialize or are sent home early before a scheduled shift is completed. Additionally, many are not getting scheduled for enough hours to make ends meet despite their willingness to work more hours.

Sometimes, the mismatch between volatile job schedules and workers' other responsibilities becomes untenable, forcing them to quit or leading them to be fired. When such job losses occur, workers and their families need a safety net to help them get by while they seek new employment. Unemployment Insurance (UI) benefits ought to be a key piece of that safety net. **But too often, workers who have been forced to leave their jobs due to scheduling challenges have difficulty accessing UI.**

This fact sheet provides an overview of the key barriers workers with volatile schedules may face when seeking UI benefits. It summarizes recommendations for policy changes to address these gaps in the safety net.

KEY UI FACTS

- To be eligible, UI claimants must have made a certain **amount of money** prior to job loss.
- UI claimants must be **available** to work in the current labor market. Some states allow **part-time availability**, but rules may limit who is eligible.
- Workers who **voluntarily quit** must have “**good cause**” for leaving work to avoid disqualification. Good cause definitions vary by state.
- Employees who have their hours reduced can receive **partial UI benefits** in some circumstances. Unemployed workers who take a part-time job while seeking full-time work may also be eligible for partial UI.

More specifics on these points can be found [here](#).

ADVICE TO CLAIMANTS: If you have been fired or have left a job due to the impact of volatile scheduling, you must file for UI benefits to receive any benefits to which you may be entitled. Challenge any unfavorable decisions and seek help from community groups, churches, unions, worker centers, or legal services. Call 211.

Read all agency messages and respond prior to any deadlines.

Common Barriers to Unemployment Insurance Access for Workers with Volatile Job Schedules

- **Workers are expected to explore alternatives with their employer before quitting.** Even if discussing such alternatives would be futile or leave the worker open to retaliation, workers who do not engage their employers prior to quitting are more likely to be disqualified for leaving work without good cause.
- **Workers are expected to endure a trial period before quitting.** If the worker quits too soon, regardless of the conditions, she may be ineligible.

Please note: This document offers a general overview of existing barriers to UI benefits that workers with volatile schedules may encounter. Rules vary by state. These barriers may or may not apply in your state. This document is not intended as a substitute for individual legal advice.

- **Working too long under unfair scheduling arrangements signals acceptance of said arrangements.** Paradoxical to the previous point, if the worker fails to leave the job “soon enough,” she may be ineligible because she is seen as accepting the working conditions.
- **Volatile schedules are seen as “customary” in workers’ industry.** If erratic schedules are the norm in an industry or the employer makes volatile schedules part of its hiring agreement, a worker may not be eligible, even when sudden schedule changes create conflicts or substantially reduce hours and pay.
- **Volatile schedules in and of themselves may not be good cause for quitting.** However, the conflicts they create may be good cause in some states. For example, child care conflicts are sometimes seen as good cause to quit, even though not getting enough hours may not be.
- **Partial unemployment insurance often provides little assistance.** Workers whose hours are reduced or who accept part-time work while receiving benefits can receive “partial” UI. However, partial UI rules have not been updated for many years in most states. As a result, they set maximum earnings levels too low and reduce workers’ benefits too much when they report any earnings.

Policy Recommendations

To improve conditions for workers with volatile schedules, advocates may wish to pursue policy changes within the UI arena after exploring the specifics in each state.

- **Advocate for fair scheduling legislation at the local, state, and national levels.** The best solution is for employers to improve their scheduling practices. In 2015, San Francisco passed the first significant scheduling legislation in the country. Laws are being considered in Congress as well as in other states and localities.
- **Amend UI rules.**
 - Workers should not be required to engage with their employers about alternatives if it would be futile or if the employer is likely to retaliate.
 - Circumstances that count as “good cause” for quitting for workers with traditional schedules should also count for workers with volatile schedules, including workers in industries where volatile schedules are customary. (For example, workers with traditional schedules would not be disqualified from receiving UI if they quit due to a substantial reduction in hours or wages. However, if workers are employed in an industry where dramatic shifts in hours and wages are customary or where such practices are specified in a hiring agreement, they may be disqualified for quitting.)
 - Rules regarding how long an employee can test out a job or when it is necessary to quit before being seen as accepting the terms of the job should be clear.
- **Update partial UI rules.** Workers who experience reduced hours or who accept part-time jobs while seeking full-time work should receive benefits at reasonable levels of compensation.
- **Let workers know.** UI agencies should conduct outreach to workers to increase understanding of UI rules and how they apply to work separations due to volatile scheduling.

This fact sheet is based upon a more detailed report, *Out of Sync: How UI Rules Fail Workers with Volatile Schedules*, which is [available here](#).

For more resources on scheduling policy, visit [CLASP’s National Repository of Resources on Job Scheduling Policy](#). Further background on UI can be found in [NELP’s Unemployment Insurance Policy Advocate’s Toolkit](#).

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