

## CHAPTER 5

### NONMONETARY ELIGIBILITY

#### IN GENERAL

Along with monetary requirements, each state's UI law requires individuals to meet nonmonetary requirements. Federal law mandates some of these requirements. The general rule is that individuals must have lost their job through no fault of their own and must be able to work, available for work, and actively seeking work. By examining the individual's current attachment to the labor force, these provisions delineate the type of risk covered by UI law – primarily, unemployment caused by economic conditions.

This chapter is organized from the perspective of an individual experiencing the claims process. First, the state would determine if there are any issues related to the individual becoming unemployed. Second, issues concerning week-to-week eligibility would be explored, as would any refusals of suitable work. Third, the state would examine whether the individual received any “deductible income” causing a reduction in benefits payable.

*Usage Note:* There is often a distinction between issues that result in disqualification and issues that result in weeks of ineligibility. A disqualified individual has no right to benefits until s/he requalifies, usually by obtaining new work or by serving a set disqualification period. In some cases, benefits and wage credits may be reduced. An ineligible individual is prohibited from receiving benefits until the condition causing the ineligibility ceases to exist. Eligibility issues are generally determined on a week-to-week basis.

#### SEPARATIONS FROM EMPLOYMENT

**VOLUNTARILY LEAVING WORK**—Since the UI program is designed to compensate wage loss due to lack of work, voluntarily leaving work without good cause is an obvious reason for disqualification from benefits. All states have such provisions.

In most states, disqualification is based on the circumstances of separation from the most recent employment. These disqualification provisions may be phrased in terms such as “has left his most recent work voluntarily without good cause.” In a few states, the agency looks to the causes of all separations within a specified period. An individual who is not disqualified for leaving work voluntarily with good cause is not necessarily eligible to receive benefits. For example, if the individual left because of illness or to take care of a family member who is ill, the individual may not be able to work or available for work. This ineligibility would generally last only until the individual was again able and available.

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**Good Cause for Voluntarily Leaving**—In all states, individuals who leave their work voluntarily must have good cause if they are not to be disqualified.

In many states, good cause is explicitly restricted to good cause connected with the work, attributable to the employer, or involving fault on the part of the employer. However, in a state where good cause is not explicitly linked to the work, the state may interpret its law to include good personal cause or it may limit it to good cause related to work. Since a state law limiting good cause to the work is more restrictive, it may contain specific exceptions that are not necessary in states recognizing good personal cause. (For example, an explicit provision not disqualifying an individual who quits to accompany a spouse to a new job might not be necessary in a state that recognizes good personal cause; it would be necessary in a state restricting good cause to that related to the work.)

The following table reflects states that restrict good cause for quitting to reasons connected to the work.

<b>Table 5-1: VOLUNTARILY LEAVING - MUST BE CONNECTED TO WORK</b>							
State	Basis	State	Basis	State	Basis	State	Basis
AL	L	AZ	L	AR	L	CO	L
CT	L	DE	L	DC	L	FL	L
GA	L	ID	L, R	IL	L	IN	L
IA	L	KS	L	KY	L	LA	L
ME	L, R	MD	I	MA	L	MI	L
MN	L	MO	L	MT	L, R	NE	L
NH	L	NJ	L, R	NM	L	NC	L
ND	L	OK	L	PR	I	SC	I
SD	I	TN	L	TX	L	VT	L
WA	L	WV	L	WI	I	WY	L

KEY: L = law R = regulation I = interpretation

Wisconsin does not disqualify an individual who accepts work that could have been refused with good cause and then terminates with good cause within the first 30 calendar days after starting the job.

The following tables indicate common “good cause” provisions. Other provisions are discussed in the text following the tables. Note that domestic violence provisions are found in table 5-4 and are not part of the more general category of “sexual or other harassment” displayed in table 5-2 below. Please note that the following tables are intended to provide a general overview of voluntary leaving provisions in the states; they are not meant to be exhaustive. Please consult the appropriate state statute, regulation, or policy for more specific information. Please note that NC law does not include any of these provisions.

<b>Table 5-2: GOOD PERSONAL CAUSE - GENERAL PROVISIONS</b>				
State	To Accept Other Work	Compulsory Retirement	Sexual or Other Harassment	Individual’s Illness
AL	L		L <sup>1</sup>	L
AK	L <sup>2</sup>	I	I	I
AZ	R	R <sup>3</sup>	R	R
AR			L	L
CA	R	L, R	L	R

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**Table 5-2: GOOD PERSONAL CAUSE - GENERAL PROVISIONS**

State	To Accept Other Work	Compulsory Retirement	Sexual or Other Harassment	Individual's Illness
CO	L <sup>2</sup>	L	L	L
CT	L <sup>2</sup>	R	R	R, I <sup>4</sup>
DE		I	I	L
DC			R	R <sup>4</sup>
FL	L <sup>2</sup>	I		L
GA	I	I <sup>3</sup>	R <sup>5</sup>	R <sup>4,5</sup>
HI	R	R	L	I
ID	L, R	L, R	L	L, R
IL	L	I	L	L <sup>4</sup>
IN	L	L	L	L
IA	L	R	I	L
KS	L	L	L	L
KY	L	I	I <sup>1</sup>	I <sup>4</sup>
LA	I <sup>2</sup>	I	I	
ME	L, R	L, R	R	L, R <sup>4</sup>
MD		I <sup>3</sup>	I	L <sup>4</sup>
MA	L	L	L	I
MI	L	I <sup>3</sup>	I	L <sup>4</sup>
MN	L	I	L	I
MS	I	L <sup>3</sup>	L	I
MO	L <sup>2</sup>		I	I
MT		L, R	L, R <sup>6</sup>	L, R
NE	L <sup>2</sup>	L <sup>3</sup>	L	L
NV	L	I <sup>3</sup>	I	I
NH	L, R <sup>2</sup>	I	I	L <sup>4</sup> , R
NJ	R	I <sup>3</sup>	I	R
NM	L	L	L, R	L
NY	I	I	I	I
ND	L <sup>2</sup>		L	L
OH	L <sup>2</sup>	I	I	I
OK		I	I	L
OR	R <sup>2</sup>	I <sup>3</sup>	I <sup>5</sup>	I <sup>4,5</sup>
PA	I	I	I <sup>5</sup>	I <sup>5</sup>
PR	I	I	I	I
RI	I	I <sup>3</sup>	L	I
SC		I	I	

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**Table 5-2: GOOD PERSONAL CAUSE - GENERAL PROVISIONS**

State	To Accept Other Work	Compulsory Retirement	Sexual or Other Harassment	Individual's Illness
SD	L <sup>2</sup>	I	I	L
TN		L <sup>3</sup>	L	L <sup>4</sup>
TX	L	I	L	L
UT	R	I <sup>3</sup>	R	R
VT	I <sup>7</sup>	I <sup>3</sup>	I	
VA	L <sup>2</sup>	I	L <sup>5</sup>	L <sup>5</sup>
VI	I	I	I	I
WA	L <sup>4</sup>	I	L, R	L <sup>4</sup>
WV			I	L
WI	L	L	L	L
WY				L

KEY: L = law, R = regulation, I = interpretation or policy

<sup>1</sup> **AL** and **KY** - only if the sexual harassment occurred on the job.

<sup>2</sup> State has specific requirements related to the pay, hours, or type of work the individual quit to accept; when new work must begin; or other requirements related to either the new or old job.

<sup>3</sup> Separations due to compulsory retirement addressed under misconduct section of the rules; separations considered a discharge for reasons other than misconduct.

<sup>4</sup> Requires illness be related to work; physician recommendation/certification and/or failure of the employer to provide accommodations; or other specific limitation.

<sup>5</sup> Requires employer notification or pursuit of reasonable alternatives/adaptations prior to leaving.

<sup>6</sup> If individual or individual's child is a victim of sexual assault or stalking, and individual quit to protect self or child from sexual assault or stalking.

<sup>7</sup> Only if the new job never materializes due to lack of work.

The following table shows states whose law, regulation, or policy addresses separation from employment to join the armed forces.

**Table 5-3: GOOD PERSONAL CAUSE - TO JOIN THE ARMED FORCES**

AK	I	AZ	R	CO	I	GA	I	HI	I
ID	L	IN	L	IA	R	KS	L	ME	I
MA	I	MI	I	MN	I	MO	I <sup>1</sup>	NV	I
NM	L, R	NY	I	OH	L <sup>2</sup>	OR	I <sup>3</sup>	PA	I
RI	I	TN	L	UT	I	VI	I	WA	L

KEY: L = law, R = regulation, I = interpretation or policy

<sup>1</sup> Only if the military pay is more remunerative.

<sup>2</sup> If individual is inducted into armed forces within 30 days after separation, or 180 days after separation if date of induction is delayed solely at the discretion of the armed forces.

<sup>3</sup> If the offer of work is definite, begins in shortest time reasonable, is reasonably expected to continue, and pays more than previous employment or WBA.

**Table 5-4: GOOD PERSONAL CAUSE - DOMESTIC VIOLENCE**

AK	L	AZ	L	AR	L	CA	L
CO	L <sup>1</sup>	CT	L	DE	L	DC	L
GA	L	HI	L	IL	L	IN	L

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**Table 5-4: GOOD PERSONAL CAUSE - DOMESTIC VIOLENCE**

IA	I	KS	L	ME	L, R	MD	L
MA	L	MN	L <sup>1</sup>	MS	R	MT	L
NE	L	NV	I	NH	L, R	NJ	L, R
NM	L	NY	L	NC	L	ND	L
OK	L	OR	L, R	PA	I	PR	I
RI	L	SC	L	SD	L	TX	L
UT	I	VI	L	WA	L	WI	L
WY	L						

KEY: L = law, R = regulation, I = interpretation or policy

<sup>1</sup> Includes immediate family member

**Table 5-5: GOOD PERSONAL CAUSE - TO PERFORM MARITAL, DOMESTIC, OR FILIAL OBLIGATIONS**

State	Basis	Cause Must Be Illness or Disability of Immediate Family Member	State	Basis	Cause Must Be Illness or Disability of Immediate Family Member
AK	R	X	AZ	R	
AR	L	X <sup>1</sup>	CA	L, R	X <sup>2</sup>
CO	L	X <sup>3</sup>	CT	L	X
DE	L	X	DC	L	X
HI	L	X	IL	L	X <sup>2</sup>
KS	I		ME	L, R	X <sup>2</sup>
MA	I	X	MN	L	X <sup>2,4</sup>
NV	L	X <sup>4</sup>	NH	L	X
NY	L, I	X <sup>5</sup>	OH	L	
OK	L	X	OR	L	X <sup>4</sup>
PA	I	X <sup>4</sup>	RI	L	X
SC	L	X	TX	L	
UT	I		VA	I	X <sup>2,4</sup>
VI	L		WA	L	X <sup>2,4</sup>
WV <sup>6</sup>	L		WI	L	X <sup>2</sup>

KEY: L = law, R = regulation, I = interpretation or policy

<sup>1</sup> Includes pregnancy.  
<sup>2</sup> Must discuss quit with employer and attempt to retain employment relationship; see state laws for more specific requirements.  
<sup>3</sup> Includes provisions regarding employer's medical leave policies and the Family Medical Leave Act.  
<sup>4</sup> All reasonable alternatives to quitting must have been pursued.  
<sup>5</sup> Quit is acceptable if individual is unable to accept a particular shift as a result of undue family hardship.  
<sup>6</sup> Quit is acceptable if due to shift change resulting in loss of child care (individual must be available for full-time work on original shift).

**Good Cause and Quit to Follow Spouse**—Most states have provisions for individuals who quit as a result of a need to accompany a spouse due to a change in the spouse's employment. Many states require the new location have an impractical commute to be considered good cause and some specify requirements to define impractical commute. Several states have provisions related to military spouses but state laws vary regarding the circumstances when the spouse of a service member is eligible for benefits. See a state's law for specific eligibility factors.

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**Other Good Cause Provisions**—Several states specify by statute that an individual has good cause in various circumstances relating to work separations that, by statute, require a determination that the individual left with good cause. Examples of reasons that may constitute good cause include:

- transportation difficulties;
- a permanent change in the work conditions that have a negative impact on the employee, including a reduction in pay or a requirement to relocate;
- accepting a voluntary lay off when a an employer announces a planned layoff;
- certain circumstances related to part-time employment; or
- to attend approved training.

**Good Cause - Relation to Other Laws**—Some states define good cause provisions related to other laws. Examples of these types of provisions include leaving work as a result of:

- hazardous work conditions;
- being asked to perform an illegal act or violate an ordinance or statute; or
- being deprived of equal employment opportunities based on bona fide occupational qualifications.

**Good Cause and Labor Arrangements**—Several state laws explicitly address separations that occur under collective bargaining agreements. Separation situations where individuals would not be disqualified under a collective bargaining agreement vary by state, but may include:

- accepting a layoff under certain circumstances;
- electing to be laid off in place of a worker with less seniority;
- being placed on a referral list or accepting a referral to another employer from the individual's hiring hall; or
- an employer's breach of a collective bargaining agreement.

**Good Cause and Suitable Work**—Some states have provisions that do not disqualify an individual for refusing an offer of work when the work is determined to not be suitable employment for the individual. An individual is not required to accept work that is less favorable than previous work, so suitability, in general, is defined in relation to the individual's work history, commuting distance, etc. Good cause can also be defined in relation to labor standards such as general labor market conditions (prevailing wages for the locality). State law should be consulted to determine how good cause related to suitable work is defined. Examples of situations where an individual would not be disqualified include:

- leaving work to accept a better job such as a job that increases wages or is closer to home;
- when an individual accepts new work that would have been determined unsuitable and leaves the job within a specified number of days or weeks;

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- leaving work determined to be unsuitable to attend approved training; or
- leaving due to a violation of the work agreement or a change in the work conditions that are less favorable.

**Good Cause and Jobs for Temporary Service Employers**—Several states’ laws provide that, if an employee of a temporary service employer fails to be available for future assignments upon completion of the current assignment, such individual shall be deemed to have voluntarily left employment without good cause connected to the work. These states require the employer to provide employees with notice that the employee must notify the temporary service upon the completion of an assignment and that failure to do so may result in benefit denial.

Table 5-6: STATES WITH TEMPORARY WORKERS PROVISIONS							
States Where Failure to Contact Employer Upon Completion of Assignment is Deemed VQ							
AL	R	AZ	R	AR	L	CO	L
DE	L	FL	L	GA	L	HI	I
ID	L, R	IN	L	IA	L	KS	L
KY	L	LA	L, I	MA	L	MI	L
MN	L	MO	L	NE	L	NJ	R
NY	I	ND	L	OK	L	PA	I
PR	I	RI	L	SC	R	SD	I
TN	I	TX	L	UT	I	WV	I

KEY: L = law , R = regulation, I = interpretation

**PERIOD OF DISQUALIFICATION**—In most states, the disqualification lasts until the individual is again employed and earns a specified amount of wages. In Alaska and Colorado, the disqualification is a fixed number of weeks (in Colorado, only for separations from the most recent employer); the longest period in either of these states is 10 weeks. Nebraska has a disqualification of 13 weeks. Maryland and North Carolina impose fixed duration disqualifications for certain conditions.

**REDUCTION OF BENEFIT RIGHTS**—In some states, in addition to the postponement of benefits, benefit rights are reduced, usually equal in extent to the weeks of benefit postponement imposed as described in the following table.

Table 5-7: VOLUNTARILY LEAVING - DISQUALIFICATION			
State	Benefits Postponed for:		Amount of Benefits Reduced
	Number of Weeks	Weeks and/or Wages to Requalify <sup>1</sup>	
AL		10 x WBA <sup>2</sup>	6-12 x WBA
AK	W + 5 <sup>2, 3</sup>		3 x WBA
AZ		5 x WBA	
AR		At least 30 days of covered work	
CA		5 x WBA	
CO	WF + 10		Wage credits from employer removed from the claim (applies to all BP employers)
CT		10 x WBA <sup>4</sup>	

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Table 5-7: VOLUNTARILY LEAVING - DISQUALIFICATION			
State	Benefits Postponed for:		Amount of Benefits Reduced
	Number of Weeks	Weeks and/or Wages to Requalify <sup>1</sup>	
DE		4 weeks of work and 4 x WBA	
DC		10 weeks of work and wages equal to 10 x WBA <sup>3</sup>	
FL		17 x WBA <sup>2</sup>	
GA		10 x WBA <sup>5</sup>	
HI		5 x WBA	
ID		14 x WBA	
IL		Wages equal to WBA in each of 4 weeks	
IN		Wages in each of 8 weeks and wages $\geq$ 8 x WBA	By 25%
IA		10 x WBA <sup>2</sup>	
KS		3 x WBA	
KY		10 weeks of covered work and wages equal to 10 x WBA <sup>2</sup>	
LA		10 x WBA <sup>2</sup>	
ME		4 x WBA <sup>2, 4</sup>	
MD	$W + 5-10^{2, 3}$	15 x WBA <sup>2, 3</sup>	
MA	$X^2$	8 weeks of work and wages of 8 x WBA	
MI		12 x WBA	
MN		One-half of amount required to establish benefit account <sup>6</sup>	
MS		8 x WBA	
MO		10 x WBA <sup>2</sup>	
MT		Wages equal to 6 x WBA <sup>3</sup>	
NE	$13^{2, 7}$		Equal <sup>7</sup>
NV		Wages equal to WBA in each of 10 weeks <sup>4</sup>	
NH		5 weeks of work in each of which earned 20% more than WBA <sup>8</sup>	
NJ		8 weeks of work and wages equal to 10 x WBA	
NM		5 x WBA in covered work	
NY		3 days work in each of 5 weeks and 10 x WBA	
NC	$X^3$	10 x WBA earned in at least 5 weeks <sup>3</sup>	$X^3$
ND		8 x WBA	
OH		6 weeks in covered work and wages equal to 27.5% of AWW <sup>2, 9</sup>	
OK		10 x WBA	
OR		4 x WBA	8 x WBA
PA		6 x WBA	
PR		4 weeks of work and wages equal to 10 x WBA	
RI		8 x WBA	
SC		8 x WBA	Equal

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Table 5-7: VOLUNTARILY LEAVING - DISQUALIFICATION			
State	Benefits Postponed for:		Amount of Benefits Reduced
	Number of Weeks	Weeks and/or Wages to Requalify <sup>1</sup>	
SD		6 weeks in covered work and wages equal to WBA in each week <sup>2</sup>	
TN		10 x WBA <sup>2</sup>	
TX		6 weeks of work or wages equal to 6 x WBA <sup>7</sup>	
UT		6 x WBA <sup>2</sup>	
VT	X <sup>10</sup>	6 x WBA	
VA		30 days or 240 hours of work <sup>2</sup>	
VI		4 weeks of work and 4 x WBA	
WA		7 weeks and earnings in bona fide work of 7 x WBA	
WV		At least 30 working days of covered employment	Equal
WI	X <sup>10</sup>	7 weeks and 14 x WBA	Wage credits from employer removed from the claim
WY		8 x WBA	

KEY: W = Week of separation, WF = Week of filing  
 "Equal" indicates reduction equal to WBA multiplied by number of weeks of disqualification.

<sup>1</sup> Minimum employment or wages to requalify for benefits.  
<sup>2</sup> Separation preceding the most recent separation may be considered under the following circumstances. **AL** - if last employment not considered bona fide work; **AK, FL, IA, MD, MA, MO, OH, and UT** - when employment or time period subsequent to separation does not satisfy potential disqualification; **LA** - disqualification applicable to base period or last employer; **ME** - disqualification applicable to most recent previous separation if last work was a voluntary quit and was not in usual trade or was intermittent; **VA** - disqualification applicable to last 30-day or 240-hour employer; **DC, SD, and WV** - if employment was less than 30 days unless on an additional claim; **KY and NE** - reduction or forfeiture of benefits applicable to separations from any base-period employer; **TN** - any employer with whom the individual earned 10 x WBA (disqualification does not apply if individual quit to join the armed forces).  
<sup>3</sup> **AK** - disqualification is terminated if individual returns to work and earns at least 8 x WBA; **MT** - disqualification is terminated after individual attends school for three consecutive months and is otherwise eligible; **MD** - the duration disqualification imposed unless a valid compelling or necessitous circumstance exists; **NC** - the agency may reduce permanent disqualification to five weeks, with a corresponding reduction in total benefits; if an employer gives notice of future work separation, disqualification of four weeks imposed if individual establishes good cause for his or her failure to work out the notice.  
<sup>4</sup> **ME** - disqualified for duration of unemployment and until individual earns 6 x WBA if voluntarily retired; **NV** - disqualified for W+4 to enter self employment, and for 10 weeks to seek better employment; **CT** - voluntary retiree disqualified for the duration of unemployment and until 40 x WBA is earned.  
<sup>5</sup> Individual must work for a liable employer and become unemployed through no fault of his or her own.  
<sup>6</sup> \$2,400 in 4-quarter base period or 5.3 percent of state's AAW rounded down to next lower \$100, whichever is higher.  
<sup>7</sup> **NE** - a disqualification for the week of separation plus two weeks if individual leaves to accept a better job; **TX** - disqualification begins with week following filing of claim.  
<sup>8</sup> Requirement to earn requalifying wages does not apply to individuals who become unemployed after leaving work to accept better employment.  
<sup>9</sup> If individual left work for compelling domestic circumstances, can requalify by earning the lesser of ½ of AAW or \$60 in covered employment.  
<sup>10</sup> **VT** - disqualified for 1-6 weeks if individual left work due to health reasons; in **WI** - disqualification for week of termination + 4 weeks if individual refuses transfer to a job paying less than 2/3 of wage rate.

### DISCHARGE FOR MISCONDUCT CONNECTED WITH THE WORK

Discharge for misconduct (which may be called a discharge for "just cause" or "a disqualifying act") provisions for disqualification follow a pattern similar to that for voluntary leaving. Many states provide for greater disqualification in the case of discharge for dishonesty or a criminal act, or other acts of aggravated misconduct. (See section on "Disqualifications for Gross Misconduct.")

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Detailed interpretations of what constitutes misconduct have been developed in each state’s benefit decisions. In determining what constitutes misconduct, many states rely on the definition established in the 1941 Wisconsin Supreme Court Case, Boynton Cab Co. v. Neubeck, 237 Wis. 249, 296 N.W. 636 (1941):

“Misconduct . . . is limited to conduct evincing such willful or wanton disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree as to manifest an equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer’s interest or of the employee’s duties and obligations to his employer.”

In some states, the definition of misconduct is expanded to include specific offenses or circumstances. Some of the areas addressed more specifically in state laws include:

- violations related to an attendance policy, or chronic or excessive absenteeism or tardiness;
- violations of an employer rule or policy;
- participation in an illegal strike as determined under state or Federal laws, without good cause or notice to the employer;
- damage to an employer’s or a customer’s property;
- conduct that neglects or endangers the health and safety of others;
- violation of a state standard or regulation, loss or failure to obtain or maintain a license or certification that is a requirement of the position, or failure to maintain standards of the profession;
- falsification of an employment application or any other documentation provided to the employer;
- absence from work due to incarceration or violation of a law related to employment.

Kentucky law provides that a legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct.

Wyoming law provides that misconduct does not include ordinary negligence in isolated instances, good faith errors in judgment or discretion, or inefficiency or failure in good performance as the result of inability or incapacity.

**ILLEGAL DRUG AND ALCOHOL PROVISIONS**—The following table includes information about states with provisions in their UI law dealing specifically with alcohol and/or illegal drugs, and testing for alcohol or illegal drugs.

<b>Table 5-8: STATES WITH DRUG AND/OR ALCOHOL PROVISIONS</b>	
<b>State</b>	<b>Workers Will Be Disqualified:</b>
AL	For testing positive for illegal drugs after being warned of possible dismissal, for refusing to undergo drug testing, or for knowingly altering a blood or urine specimen

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<b>Table 5-8: STATES WITH DRUG AND/OR ALCOHOL PROVISIONS</b>	
<b>State</b>	<b>Workers Will Be Disqualified:</b>
AK	For reporting to work under the influence of drugs/alcohol, consumption on the employer's premises during work hours, or violation of employer's policy as long as policy meets statutory requirements
AZ	For refusing to undergo drug or alcohol testing, or having tested positive for drugs or alcohol
AR	For drinking on the job or reporting for work while under the influence of intoxicants, including a controlled substance; if discharged for testing positive for an illegal drug
CA	For chronic absenteeism due to intoxication, reporting to work while intoxicated, using intoxicants on the job, or gross neglect of duty while intoxicated, when any of these incidents is caused by an irresistible compulsion to use intoxicants; also disqualified if individual quit for reasons caused by an irresistible compulsion to use intoxicants
CT	If discharged or suspended due to being disqualified from performing work under state or Federal law for which hired as a result of a drug or alcohol testing program mandated and conducted by such law
FL	For drug use, as evidenced by a positive, confirmed drug test
GA	For violating an employer's drug-free workplace policy
IL	For consuming alcohol or illegal drugs, non-prescribed prescription drugs, or using an impairing substance in an off-label manner on the employer's premises during working hours in violation of the employer's policies, or showing up to work impaired during normal working hours
KY	For reporting to work under the influence of drugs/alcohol, or consuming them on employer's premises during working hours
LA	For the use of illegal drugs, on or off the job
MI	For illegally ingesting a controlled substance on the employer's premises, for refusing to submit to a drug test that was required to be administered in a nondiscriminatory manner, or for testing positive on a drug test that was administered in a nondiscriminatory manner
MO	For any drug/alcohol use; positive pre-employment drug/alcohol test is considered misconduct
NH	For intoxication or use of drugs that interferes with work
OK	For refusing to undergo drug or alcohol testing, or having tested positive for drugs or alcohol
OR	For failure or refusal to take a drug or alcohol test as required by employer's written policy; being under the influence of intoxicants while performing services for the employer; possessing a drug unlawfully; testing positive for alcohol or an unlawful drug in connection with employment; or refusing to enter into/violating terms of a last-chance agreement with employer; not disqualified if participating in a recognized rehabilitation program within 10 days of separation
PA	For failure to submit to and/or pass a drug test conducted pursuant to an employer's established substance abuse policy, provided that the drug test is not requested or implemented in violation of the law or of a collective bargaining agreement
SC	For failure or refusal to take a drug test or submitting to a drug test which tests positive for illegal drugs or legal drugs used unlawfully
WV	For reporting to work in an intoxicated condition or under the influence of any controlled substance without a valid prescription; for being intoxicated or under the influence of any controlled substance without a valid prescription while at work; for manipulating a sample or specimen to thwart a lawfully required drug or alcohol test; for refusal to submit to random drug testing for employees in safety-sensitive positions
VA	For drug use, as evidenced by a positive, confirmed USDOT qualified drug screen conducted in accordance with the employer's bona fide drug policy

Disqualification for discharge for misconduct, as for voluntary leaving, is usually based on the circumstances of separation from the most recent employment. However, as indicated in the following table, a few state laws require consideration of the reasons for separation from employment other than the most recent.

Federal law permits cancellation of wage credits for only three reasons: misconduct in connection with the work, fraud in connection with a claim, or receipt of disqualifying income. The severity of the cancellation penalty depends mainly on the presence or absence of additional wage credits during the base period. If the wage credits canceled extend beyond the base period for the current benefit year, the individual may not be monetarily eligible in the subsequent benefit year.

**PERIOD OF DISQUALIFICATION**—Some states have a variable disqualification for discharge for misconduct. In some states the range is small, in others, the range is large. Some states provide a fixed disqualification, and others disqualify for the duration of the unemployment or longer. Some states reduce or

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cancel all of the individual's benefit rights. Some states provide for disqualification for disciplinary suspensions.

<b>Table 5-9: DISCHARGE FOR MISCONDUCT - DISQUALIFICATION</b>					
State	Includes Other Than Last Employer	Benefits Postponed for:		Benefits Reduced or Canceled	Disqualification for Disciplinary Suspension
		Number of Weeks	Duration of Unemployment Until Requalify <sup>1</sup>		
AL	X <sup>2</sup>		10 x WBA	Equal	W + 1-3
AK		W + 5 <sup>3</sup>		3 x WBA	Same as discharge for misconduct
AZ			5 x WBA		
AR			30 days covered employment		Lesser of duration of suspension or 8 weeks
CA			5 x WBA		
CO		WF + 10		Equal	
CT			10 x WBA		Same as discharge for misconduct
DE			4 weeks of work and 4 x WBA		
DC	X <sup>2</sup>	WF + 7 <sup>3</sup>	8 weeks of work and 8 x WBA	8 x WBA	
FL	X <sup>2</sup>	W + 1-52 <sup>3</sup>	17 x WBA		Duration
GA			10 x WBA	Equal	Same as discharge for misconduct
HI			5 x WBA		
ID	X <sup>2</sup>		14 x WBA		
IL			Wages equal to WBA in each of 4 weeks		
IN			Wages in each of 8 weeks and wages ≥ 8 x WBA	25%, only one reduction during benefit year	
IA			10 x WBA		Same as discharge for misconduct
KS			3 x WBA		
KY			10 weeks of covered work and wages equal to 10 x WBA		
LA			10 WBA		
ME			8 x WBA		Duration or until earns 4 x WBA
MD	X <sup>2</sup>	W + 10-15			Same as discharge for misconduct
MA	X <sup>2</sup>		8 weeks of work and wages of 8 x WBA		
MI			17 x WBA		
MN			One-half of amount required to establish benefit account <sup>4</sup>		Duration

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Table 5-9: DISCHARGE FOR MISCONDUCT - DISQUALIFICATION					
State	Includes Other Than Last Employer	Benefits Postponed for:		Benefits Reduced or Canceled	Disqualification for Disciplinary Suspension
		Number of Weeks	Duration of Unemployment Until Requalify <sup>1</sup>		
MS			8 x WBA		
MO	X <sup>2</sup>		6 x WBA for each disqualifying separation		Same as discharge for misconduct
MT			Wages equal to 8 x WBA		
NE	X <sup>2</sup>	14		Equal	
NV			Wages equal to WBA in each of 15 weeks		
NH			5 weeks work in each of which earned 20% more than WBA		Duration
NJ	X <sup>2</sup>	W + 5			Same as discharge for misconduct
NM			5 x WBA in covered work		
NY			3 days work in each of 5 weeks and 10 x WBA		
NC		X <sup>3</sup>	10 x WBA in at least 5 weeks	X <sup>3</sup>	
ND	X <sup>2</sup>		10 x WBA		Duration
OH	X <sup>2</sup>		6 weeks in covered work plus wages equal to 27.5% of state AWW		Duration
OK			10 x WBA		
OR			4 x WBA	8 x WBA	Same as discharge for misconduct
PA			6 x WBA		Same as discharge for misconduct
PR			4 weeks of work and wages equal to 10 x WBA		Same as discharge for misconduct
RI	X <sup>2</sup>		8 x WBA		Same as discharge for misconduct
SC		WF + 20 <sup>5</sup>		Equal	
SD	X <sup>2</sup>		6 weeks in covered work and wages equal to WBA each week		Same as discharge for misconduct
TN	X <sup>2</sup>		10 x WBA		
TX			6 weeks of work or wages equal to 6 x WBA		
UT	X <sup>2</sup>		6 x WBA in covered work		
VT		WF + 6-15			
VA	X <sup>2</sup>		30 days or 240 hours of work		Duration
VI			4 weeks of work and 4 x WBA		Same as discharge for misconduct
WA			10 weeks and earnings in bona fide work 10 x WBA		Same as discharge for misconduct

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Table 5-9: DISCHARGE FOR MISCONDUCT - DISQUALIFICATION					
State	Includes Other Than Last Employer	Benefits Postponed for:		Benefits Reduced or Canceled	Disqualification for Disciplinary Suspension
		Number of Weeks	Duration of Unemployment Until Requalify <sup>1</sup>		
WV	X <sup>2</sup>	W + 6		Equal <sup>6</sup>	
WI			7 weeks elapsed and 14 x WBA	Benefit rights based on any work involved canceled	
WY			12 x WBA		

KEY: W = Week of discharge or week of suspension, WF = Week of filing  
 "Equal" indicates a reduction equal to the WBA multiplied by the number of weeks of disqualification.

<sup>1</sup> Minimum employment or wages to requalify for benefits and separated through no fault of his or her own.  
<sup>2</sup> Disqualification pertains only to last separation unless indicated. **AL** - the preceding separation may be considered if last employment is not considered bona fide work; **FL, ID, MD, MA, MO, OH, RI,** and **UT** - a previous employer may be considered if the work with the separating employer does not satisfy a potential disqualification; **VA** - disqualification is applicable to last employing unit for which individual has worked 30 days or 240 hours and all subsequent employers; **DC, SD,** and **WV** - disqualification is applicable to last 30-day employing unit on new claims and to most recent employer on additional claims; **ND** - any employer with whom the individual earned 8 x WBA; **NE** - reduction or forfeiture of benefits applicable to separations from any base-period employer; **NJ** - provided the period of disqualification has not elapsed prior to the date of claim.  
<sup>3</sup> **AK** - the disqualification is terminated if individual returns to work and earns 8 x WBA; **DC** - disqualification is terminated if either condition is satisfied; **FL** - both the term and the duration-of-unemployment disqualifications are imposed; **NC** - the agency may reduce permanent disqualification to time certain, but not less than five weeks; when permanent disqualification changed to time certain, benefits are reduced by an amount equal to the number of weeks of disqualification x WBA. Also, an individual will be disqualified for substantial fault on the part of the individual that is connected with work but not rising to the level of misconduct. The disqualification will vary from 4-13 weeks depending on the circumstances.  
<sup>4</sup> \$2,400 in 4-quarter base period or 5.3 percent of state's AAW rounded down to next lower \$100, whichever is higher.  
<sup>5</sup> Partial ineligibility of 5 to 19 weeks, plus waiting week, if individual is discharged for cause other than misconduct. Duration of ineligibility period determined in each case according to the seriousness of the cause for discharge.  
<sup>6</sup> Benefit reduction is restored if individual returns to covered employment for at least 30 days within BY.

**DISQUALIFICATION FOR GROSS MISCONDUCT**—Some states provide greater disqualifications for certain types of misconduct. For purposes of this section, all of these greater disqualifications will be considered disqualifications for “gross misconduct” even if the state’s law does not specifically use this term.

States define gross misconduct in terms such as:

- Discharge for dishonesty or an act constituting a crime or a felony in connection with the work, if the individual is convicted or signs a statement admitting the act.
- Discharge for a dishonest or criminal act in connection with the work.
- Discharge for dishonesty, intoxication (including a controlled substance), or willful violation of bona fide written rules or customs of the employer including those pertaining to safety, harassment, unprofessional conduct, or insubordination.
- Assault or threatened assault upon supervisors, coworkers, or others at the work site.
- Assault, bodily injury, property loss or damage amounting to at least \$2,000, theft, sabotage, embezzlement, or falsification of employer’s records.
- Theft, fraud, intentional damage to property, intentional infliction of personal injury, or any conduct that constitutes a felony. Gross misconduct also includes the use of, or impairment

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from, alcohol or drugs by an individual while working, or a positive breath alcohol test or chemical test administered pursuant to specific requirements.

- Conviction of a felony or misdemeanor in connection with work.
- Assault, theft, or willful destruction of property.
- Any act that would constitute a gross misdemeanor or felony.
- Being placed on a disciplinary suspension.

Table 5-10: STATES WITH GROSS MISCONDUCT PROVISIONS - DISQUALIFICATION					
State	Includes Other Than Last Employer	Benefits Postponed For:			Benefits Reduced or Canceled
		Fixed Number of Weeks	Variable Number of Weeks	Duration of Unemployment Until Requalify	
AL	X <sup>1</sup>			10 x WBA <sup>1</sup>	Wages earned from employer involved canceled
AK		52		20 x WBA	
AR				Wages in 2 quarters for insured work totaling not less than 35 x WBA	
CO		26			Equal
DC				10 weeks of work and wages equal to 10 x WBA	
FL			Up to 52	17 x WBA	
IL					All prior wage credits canceled <sup>2</sup>
IN					All prior wage credits canceled <sup>2</sup>
IA					All prior wage credits canceled
KS				8 x WBA	All prior wage credits canceled
LA	X <sup>1</sup>			10 x WBA <sup>1</sup>	Wages earned from employer involved canceled <sup>1</sup>
ME				Greater of \$600 or 8 x WBA	
MD				25 x WBA <sup>3</sup>	
MI	X <sup>1</sup>	26 <sup>1</sup>		In each of 13 weeks, earnings at least 1/13 of minimum qualifying high quarter amount <sup>4</sup>	
MN				8 x WBA	Wages earned from employer involved canceled
MO	X <sup>1</sup>			6 x WBA for each disqualifying separation <sup>1,5</sup>	Optional <sup>5</sup>
MT		12 months			Equal
NE					All prior wage credits canceled
NV					Benefit rights based on any work involved canceled <sup>6</sup>
NH			W + 4-26 <sup>6</sup>	5 weeks work in each of which earned 20% more than WBA	All prior wage credits canceled
NJ	X <sup>1</sup>			8 weeks of covered work and wages equal to 10 x WBA	Wages earned from employer involved canceled
NY	X <sup>1</sup>	12 months <sup>1</sup>			Wages earned from employer involved canceled
ND		12 months			

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Table 5-10: STATES WITH GROSS MISCONDUCT PROVISIONS - DISQUALIFICATION					
State	Includes Other Than Last Employer	Benefits Postponed For:			Benefits Reduced or Canceled
		Fixed Number of Weeks	Variable Number of Weeks	Duration of Unemployment Until Requalify	
OH	X <sup>1</sup>				Benefit rights based on any work involved canceled <sup>1</sup>
OR					All prior wage credits canceled
SC				8 x WBA	Optional equal
UT		W + 51			All wage credits from the separating employer are canceled
VT				6 x WBA	Wages earned from employer canceled
WA					Greater of all hourly wage credits from employer involved or 680 hours of wage credits, canceled
WV	X <sup>1</sup>			30 days in covered work	

KEY: W = Week of discharge, WF = Week of filing

<sup>1</sup> **AL** - disqualification applies to other than most recent separation from bona fide work only if employer files timely notice alleging disqualifying act; **LA, MI, and MO** - disqualification is applicable for all base-period employers; **OH** - applies if unemployed because of dishonesty or felony in connection with employment; **NY** - no days of unemployment deemed to occur for following 12 months if individual is convicted or signs statement admitting felonious act in connection with employment; **WV** - reduction or forfeiture of benefits is applicable to either most recent work or last 30-day employing unit; **NJ** - any base period employer.

<sup>2</sup> **IL** - wage credits are cancelled if gross misconduct constitutes a felony or theft and is admitted by the individual or has resulted in conviction in a court of competent jurisdiction; **IN** - same applies if gross misconduct constitutes a felony or misdemeanor.

<sup>3</sup> Has provision for aggravated misconduct, which consists of either physical assault, property loss, or damage so serious and with malice that the gross misconduct penalty is not sufficient. Disqualification is duration of unemployment and earnings of at least 30 x WBA.

<sup>4</sup> Or individual must file a continued claim in each of 13 weeks and certify as to satisfaction of all usual weekly eligibility requirements.

<sup>5</sup> Option taken by the agency to cancel all or part of wages depends on seriousness of misconduct. The only wage credits canceled are those based on work-connected misconduct.

<sup>6</sup> **NH** - if discharged for arson, sabotage, felony, assault causing bodily injury, criminal threatening, or theft equal to or greater than \$250, all prior wage credits are canceled; **NV** - if individual is discharged and admits in writing or under oath, or is convicted for assault, arson, sabotage, grand larceny, embezzlement, or wanton destruction of property in connection with work, wage credits from that employer are canceled.

**DISQUALIFICATION FOR FRAUD AND MISREPRESENTATION**—In addition to assessments and prison time, individuals may be disqualified from benefits. The provisions for disqualification for fraud and misrepresentation follow no general pattern. In a few states there is a more severe disqualification when the fraudulent act results in payment of benefits. In others, it is more severe when the individual is convicted.

In a few states, the disqualification is not imposed unless the individual is convicted while in other states, the individual is not subject to an administrative disqualification if penal procedures have been undertaken or if the benefits are being or have been recovered.

Some states include a statutory limitation on the period within which a disqualification for fraudulent misrepresentation may be imposed (see footnote 3 in table 5-12). The length of the period is usually two years. In a few states, the period runs from the date of the offense to the filing of a claim for benefits. In these states, the disqualification can be imposed only if the individual files a claim for benefits within two years of the date of the fraudulent act.

In many states, the penalty for disqualification for fraud or misrepresentation is, as would be expected, more severe than the ordinary disqualification provisions. In some states, the disqualification is for at least a year; in others, it may last longer. The provisions are difficult to compare because some disqualifications start with the date of the fraudulent act, while others begin with the discovery of the act, the determination of fraud, the date on which the individual is notified to repay the sum so received, or the date of conviction by a court.

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Some begin with the filing of a first claim, while others are for weeks that would otherwise be compensable. The disqualification provisions are, moreover, complicated by tie-in with recoupment provisions and by retroactive imposition.

As following table shows, the cancellation of wage credits in many states means the denial of benefits for the current benefit year or longer. A disqualification for a year means that wage credits will have expired, in whole or in part, depending on the end of the benefit year and the amount of wage credits accumulated for another benefit year before the fraudulent act. Thus, future benefits are reduced as if there had been a provision for cancellation. In other states with discretionary provisions or shorter disqualification periods, the same result will occur for some individuals. In many states, as noted in the table below, the agency may deny benefits until the benefits obtained through fraud are repaid although some states impose a time limit for the denial. In some states, an individual may qualify after a specified period of time and repayment is made through an offset of the benefits.

**TABLE 5-11: DISQUALIFICATION FOR FRAUD**

State	Duration of Disqualification	Benefits Reduced or Canceled
AL	52 weeks for 1 <sup>st</sup> offense and 104 weeks for 2 <sup>nd</sup> and subsequent offenses	4 x WBA to maximum benefit amount payable in BY <sup>1</sup>
AK	W + 6 – 52	X <sup>1</sup>
AZ	Until total amount of overpayment and all penalties and interest have been recovered or otherwise satisfied in compliance with a civil judgment <sup>2, 3</sup>	X <sup>1</sup>
AR	W + 13; additional 3 weeks for each week of fraud <sup>2, 3</sup>	Benefits canceled in BY in which fraud occurred
CA	If convicted, 52 weeks <sup>2, 3, 4</sup>	X <sup>1</sup>
CO	4 - 104 weeks	X <sup>1</sup>
CT	Full amount of overpayment must be repaid	Mandatory equal reduction
DE	W + 51	X <sup>1</sup>
DC	All or part of remainder of BY and for 1 year commencing with the end of such BY <sup>1</sup>	X <sup>1</sup>
FL	1 - 52 weeks and until fraudulent overpayments are repaid in full <sup>2</sup>	X <sup>1</sup>
GA	Remainder of current quarter and next 4 quarters <sup>3</sup>	Mandatory equal reduction <sup>3</sup>
HI	24 months <sup>2, 3</sup>	X <sup>1</sup>
ID	W + 52; amounts fraudulently received, plus penalty and interest, must be repaid <sup>2, 3</sup>	X <sup>1</sup>
IL	W + 6 weeks; if additional offenses, up to <sup>2, 3</sup>	
IN	Up to current BY	All wage credits prior to act canceled
IA	Up to current BY <sup>2</sup>	Mandatory equal reduction
KS	5 years after act committed or after 1 <sup>st</sup> day following last week for which benefits were paid, whichever is later	X <sup>1</sup>
KY	Unreported earnings: W + additional weeks based on amount of unreported earnings (up to 52 W); nondisclosure of info other than wages: W + 26 <sup>2</sup>	X <sup>1</sup>

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<b>TABLE 5-11: DISQUALIFICATION FOR FRAUD</b>		
State	Duration of Disqualification	Benefits Reduced or Canceled
LA	For remainder of BY after commission of fraudulent act and then continuing for 52 weeks following determination of fraud	X <sup>1</sup>
ME	6 months - 1 year; for 3 <sup>rd</sup> occurrence disqualification determined by the Commissioner <sup>2</sup>	
MD	All benefits and interest repaid <sup>2</sup>	X <sup>1</sup>
MA	A compensable week for each week overpaid	25% of WBA
MI	Current BY and until such amounts are repaid or withheld <sup>2, 3</sup>	All base period wages canceled; benefits canceled in BY in which fraud occurred
MN	13 - 104 weeks	X <sup>1</sup>
MS	W + up to 52 weeks; first overpayment results in 6 weeks for each fraudulent week; any additional overpayment results in 12 weeks for each fraudulent week	X
MO	Up to current benefit year + <sup>5</sup>	All or part of wage credits prior to act canceled
MT	1 - 52 weeks and until benefits are repaid <sup>2</sup>	
NE	Up to current benefit year + <sup>5</sup>	All or part of wage credits prior to act canceled
NV	W + 1 - 52 or until sum equal to all benefits received or paid plus any interest, penalties, or costs related to that sum is repaid, whichever is longer; period of disqualification will be fixed according to the circumstances in each case <sup>6</sup>	X <sup>1</sup>
NH	4 - 52 weeks; if convicted, 1 year after conviction; and until benefits are repaid or withheld <sup>2</sup>	Mandatory equal reduction
NJ	1 year <sup>2</sup>	X <sup>1</sup>
NM	Not more than 52 weeks <sup>2</sup>	X <sup>1</sup>
NY	4 - 80 days for which otherwise eligible <sup>2, 3</sup>	Mandatory equal reduction
NC	52 weeks <sup>2</sup>	X <sup>1</sup>
ND	W + 51	X <sup>1</sup>
OH	Amount of fraudulent benefits must be repaid, and individual held ineligible for 2 otherwise valid weekly claims for each weekly claim canceled	2 penalty weeks are served for each week in which fraud occurred
OK	W + 51 <sup>2, 3</sup>	BP or BY may not be established during period
OR	52 weeks; if convicted, until benefits are repaid or withheld <sup>2, 3, 5</sup>	If convicted, all wage credits prior to conviction canceled <sup>6</sup>
PA	2 weeks plus 1 week for each week of fraud or, if convicted of illegal receipt of benefits, 1 year after conviction and until benefits are withheld or repaid <sup>3</sup>	X <sup>1</sup>
PR	W + 51 provided that criminal procedures have not been filed against individual <sup>2, 3</sup>	
RI	If convicted, 1 year after conviction	X <sup>1</sup>
SC	W + 10 - 52 <sup>2</sup>	X <sup>1</sup>
SD	Benefits denied for weeks of compensable unemployment from and after the discovery date of fraud, until benefits are repaid	X <sup>1</sup>

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**TABLE 5-11: DISQUALIFICATION FOR FRAUD**

State	Duration of Disqualification	Benefits Reduced or Canceled
TN	W + 4 - 52 <sup>2</sup>	X <sup>1</sup>
TX	Current BY	Benefits or remainder of BY canceled
UT	W + 13 - 49, and until benefits received fraudulently are repaid	X <sup>1</sup>
VT	If not prosecuted, until amount of fraudulent benefits are repaid or withheld + 1 - 26 weeks <sup>2, 3</sup>	X <sup>1</sup>
VA	W + 52; if convicted, 1 year after conviction, or until repaid <sup>2, 3</sup>	X <sup>1</sup>
VI	W + 51 <sup>2, 3</sup>	X <sup>1</sup>
WA	Week of fraudulent act + 26 weeks following filing of 1 <sup>st</sup> claim after determination of fraud for 1 <sup>st</sup> offense; plus additional 52 weeks for 2 <sup>nd</sup> offense; plus additional 104 weeks for 3 <sup>rd</sup> and subsequent offenses <sup>3</sup>	X <sup>1</sup>
WV	W + 52 <sup>2</sup>	
WI	Each week of fraud	1 - 4 x WBA <sup>1</sup>
WY	W + 51 <sup>2</sup>	

GENERAL NOTE: W = week in which act occurs plus the indicated number of consecutive weeks following.

<sup>1</sup> Before disqualification period ends, wage credits may or will have expired in whole or in part depending on disqualification imposed and/or end of BY.

<sup>2</sup> **HI, ID, IL, IA, MD, MT, NH, NM, OK, PR, SC, VA, and WV** - period of disqualification is measured from date of determination of fraud; **ME** and **NC** - mailing date of determination; **VT** - date of redetermination of fraud; **AR** - date of delivery or mailing of determination; **AZ** - date of claim or registration for work; **CA** - week determination is mailed or served, or any subsequent week for which individual is first otherwise eligible for benefits, or if convicted, week in which criminal complaint is filed; **FL, NY, and TN** - waiting or compensable week after its discovery; **OR** - as determined by agency; **KY, MI, and NJ** - date of discovery of fraud; **VI** - determination mailed or delivered; **WY** - week of fraud or week following the date notice is mailed.

<sup>3</sup> Has a statutory limitation.

<sup>4</sup> Disqualification of 2 - 15 weeks if no benefits paid; 5 - 15 weeks if benefits received; Director may extend the period of ineligibility for an additional period not to exceed eight additional weeks for successive disqualification; disqualification may be served concurrently with a disqualification imposed for any of the three major causes if individual registers for work for such week as required under latter disqualifications.

<sup>5</sup> **MO, NE, and OR** - cancellation of all wage credits means that period of disqualification will extend into second BY, depending on amount of wage credits for such year accumulated before fraudulent claim.

<sup>6</sup> May be waived for good cause, or if the individual adheres to an authorized repayment schedule designed to repay benefits, penalties, and interest within 18 months.

## DRUG TESTING AS A CONDITION OF ELIGIBILITY

The Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96) amended Federal law to permit states to conduct drug testing on individuals applying for benefits if the individual was discharged from employment for unlawful drug use, or if the only suitable work available to the individual is in an occupation that regularly conducts drug testing. States are permitted to deny benefits to individuals who test positive for drugs under these circumstances. Three states have enacted such laws, the implementation of which is subject to applicable Federal law.

Mississippi permits drug testing on individuals as a condition of eligibility for benefits if the individual was discharged because of unlawful drug use or if s/he is seeking suitable work only in an occupation that requires drug testing. Individuals may be denied benefits based on the results of these drug tests, but may end the disqualification period early by submitting acceptable proof of a negative drug test result from an approved

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testing facility. Texas permits drug testing, as a condition of eligibility for benefits, on individuals for whom suitable work is available only in an occupation that regularly conducts pre-employment drug testing. Wisconsin enacted legislation requiring the establishment of rules for a drug testing program for controlled substances, including rules identifying occupations for which drug testing is regularly conducted in the state.

## LABOR DISPUTES

Unlike many other eligibility provisions, those related to labor disputes do not question whether the unemployment is incurred through fault on the part of the individual worker. The denial is always a postponement of benefits; there is no reduction or cancellation of benefit rights. In almost all states, the denial period is indefinite and geared to the continuation of the dispute-induced work stoppage or to the progress of the dispute.

**DEFINITION OF LABOR DISPUTE**—State laws use different terms to describe labor disputes. In addition to labor dispute, these terms include trade dispute, strike, “strike and lockout,” or “strike or other bona fide labor dispute.” Except for Alabama, Arizona, Colorado, and Minnesota, state laws do not define these terms. Some states exclude the following from their denials.

- Employer lockouts.
- Disputes resulting from the employer’s failure to conform to the provisions of a labor contract.
- Disputes caused by the employer’s failure to conform to any state or federal law relating to wages, hours, working conditions, or collective bargaining.
- Disputes where the employees are protesting substandard working conditions.

**LOCATION OF THE DISPUTE**—Usually an individual is not denied benefits unless the labor dispute is in the establishment in which the individual was last employed. A few states deny individuals at any other premises operated by the employer, under certain circumstances.

**PERIOD OF DENIAL**—In most states, the denial period ends when the “stoppage of work because of a labor dispute” ends or the stoppage ceases to be caused by the labor dispute. In some states, the denial period lasts while the labor dispute is in “active progress.” In others, the denial period lasts while the individual’s unemployment is a result of a labor dispute.

A few state laws allow individuals to terminate the denial period by showing that the labor dispute (or the stoppage of work) is no longer the cause of their unemployment.

- In Indiana, the denial ends following termination of employment with the employer involved in the dispute.
- In Michigan, the denial ends if an individual works in at least two consecutive calendar weeks and earns wages in each week of at least the weekly benefit amount based on employment with the employer involved in the labor dispute.
- In Missouri, the denial ends following the bona fide employment of the individual for at least the major part of each of two weeks.
- In New Hampshire, the denial ends two weeks after the dispute has ended even if the stoppage of work continues.

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- In Maine, Massachusetts, New Hampshire, and Utah an individual may receive benefits if, during a stoppage of work resulting from a labor dispute, he or she obtains employment with another employer and earns a specified amount of wages. However, wages earned with the employer involved in the dispute cannot be used to determine eligibility while the stoppage of work continues.
- In contrast, some states' laws extend the denial for the period of time necessary for the employer to resume normal operations (Arkansas, Colorado, North Carolina, and Tennessee). Others extend the denial period to shutdown and start-up operations (Michigan and Virginia).
- In New York, an individual is denied for seven consecutive weeks due to unemployment because of a strike, lockout, or concerted activity not authorized or sanctioned by the collective bargaining unit in the establishment where such individual was employed.

**EXCLUSION OF INDIVIDUAL WORKERS**—Most states provide that individual workers are not denied benefits under the labor dispute provisions if they and others of the same grade or class are not participating in the dispute, financing it, or directly interested in it.

Table 5-12: LABOR DISPUTES - DURATION OF DENIAL			
State	During Stoppage of Work	While Dispute Is in Active Progress	Other
AL		X	
AK	X		
AZ			X <sup>1</sup>
AR			X
CA		X	
CO			X
CT			X <sup>1</sup>
DE	X		
DC		X	
FL		X	
GA	X <sup>2</sup>		
HI	X		
ID			X <sup>1</sup>
IL	X		
IN			X <sup>3</sup>
IA	X		
KS	X		
KY		X	
LA		X	
ME	X		
MD	X		
MA	X <sup>2</sup>		

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**Table 5-12: LABOR DISPUTES - DURATION OF DENIAL**

State	During Stoppage of Work	While Dispute Is in Active Progress	Other
MI			X
MN		X	
MS	X		
MO	X		
MT			X <sup>1</sup>
NE	X		
NV		X	
NH	X		
NJ	X		
NM			X <sup>1</sup>
NY			X
NC			X
ND			X <sup>1</sup>
OH			X <sup>1</sup>
OK	X		
OR		X	
PA	X		
PR	X		
RI			X <sup>1</sup>
SC		X	
SD			X <sup>1</sup>
TN		X	
TX	X <sup>3</sup>		
UT	X		
VT	X		
VA		X	X
VI		X	
WA			X <sup>1</sup>
WV	X <sup>2</sup>		
WI		X	
WY	X		

<sup>1</sup> As long as unemployment is caused by the existence of a labor dispute.

<sup>2</sup> Disqualification ceases: **GA** - when operations have been resumed but individual has not been reemployed; **MA** - within one week following termination of dispute if individual is not recalled to work; **WV** - if the stoppage of work continues longer than four weeks after the termination of the labor dispute, there is a rebuttable presumption that the stoppage is not due to the labor dispute and the burden is on the employer to show otherwise.

<sup>3</sup> **IN** and **TX** - as long as unemployment is caused by work stoppage that exists because of labor dispute; failure or refusal to cross picket line or to accept and perform available and customary work in the establishment constitutes participation and interest.

## NONMONETARY ELIGIBILITY

Table 5-13: LABOR DISPUTES - EXCLUSIONS						
State	Disputes Excluded if Caused by:			Workers Not Denied if Neither They Nor Any of the Same Grade or Class Are:		
	Employer's Failure to Conform to:		Lockout	Participating In Dispute	Financing Dispute	Directly Interested in Dispute
Contract	Labor Law					
AL						
AK	X	X		X		X
AZ	X	X		X	X	X
AR			X	X		X
CA			X			
CO			X <sup>1</sup>	X	X	X
CT			X	X	X	X
DE			X			
DC			X	X		X
FL			X	X	X	X
GA			X	X	X	X
HI				X		X
ID				X	X <sup>2</sup>	X
IL			X <sup>1</sup>	X	X	X
IN				X	X	X
IA				X	X	X
KS				X <sup>3</sup>	X	X <sup>3</sup>
KY			X			
LA			X	X <sup>2</sup>		X <sup>2</sup>
ME	X	X	X	X	X	X
MD			X	X	X	X
MA			X	X	X	X
MI			X <sup>4</sup>			
MN	X	X	X	X <sup>5</sup>		X <sup>5</sup>
MS			X	X		X
MO				X	X	X
MT		X		X	X	X
NE				X	X	X
NV				X	X	X
NH	X	X		X	X	X
NJ			X <sup>6</sup>	X	X	X
NM				X		X
NY			X <sup>7</sup>			

## NONMONETARY ELIGIBILITY

**Table 5-13: LABOR DISPUTES - EXCLUSIONS**

State	Disputes Excluded if Caused by:			Workers Not Denied if Neither They Nor Any of the Same Grade or Class Are:		
	Employer's Failure to Conform to:		Lockout	Participating In Dispute	Financing Dispute	Directly Interested in Dispute
	Contract	Labor Law				
NC						
ND				X		X
OH			X <sup>1</sup>	X <sup>1</sup>		
OK			X	X		X
OR	X		X	X <sup>1</sup>	X	X
PA			X	X		X
PR				X		X
RI			X	X <sup>2</sup>	X <sup>2</sup>	X <sup>2</sup>
SC				X	X <sup>2</sup>	X
SD			X	X	X	X
TN			X	X <sup>1</sup>		
TX			X	X <sup>3</sup>	X <sup>3</sup>	X <sup>3</sup>
UT		X <sup>1</sup>	X			X
VT			X <sup>1</sup>	X <sup>2</sup>	X <sup>2</sup>	X <sup>2</sup>
VA				X	X	X
VI			X	X		X
WA				X	X	X
WV	X <sup>8</sup>		X	X	X	X
WI			X			
WY				X	X	X

<sup>1</sup> Dispute is not disqualifying: **CO** - unless the lockout results from demands of employees, as distinguished from an employer effort to deprive the employees of some advantage they already possess; **OH** - if the individual was laid off and not recalled prior to the dispute, if separated prior to the dispute, or if obtained bona fide job with another employer while the dispute was in progress; **IL** - if the recognized or certified collective bargaining representative of the locked out employees refuses to meet under reasonable conditions with the employer to discuss the lockout issues, or there is a final adjudication under the NLRA that during the lockout period such representative has refused to bargain in good faith with the employer over the lockout issues, or if the lockout resulted as a direct consequence of a violation by such representative of the provisions of an existing collective bargaining agreement; **OR** - if the individual was laid off prior to the dispute and did not work more than seven days during the 21 calendar days immediately prior to the dispute, or if his or her position was filled and the individual unilaterally abandons the dispute to seek reemployment with the employer; **TN** - if the individual was indefinitely separated prior to the dispute and otherwise eligible; **UT** - if the employer was involved in fomenting the strike; **VT** - if the employer brought about the lockout to gain concessions from the employees.

<sup>2</sup> Applies only to individual, not to other workers of the same grade or class.

<sup>3</sup> As long as unemployment is caused by work stoppage that exists because of labor dispute; failure or refusal to cross picket line or to accept and perform available and customary work in the establishment constitutes participation and interest.

<sup>4</sup> Only if unemployment is caused by lockout in another, functionally integrated U.S. establishment of the same employer.

<sup>5</sup> Disqualification limited to one week for individuals neither participating in nor directly interested in dispute.

<sup>6</sup> Individuals locked out of employment by their employer can collect benefits if they were not on strike immediately prior to the lockout and are directed by their union leadership to work under the preexisting terms and conditions of employment.

<sup>7</sup> If not participating and not employed by an employer that is involved in the industrial controversy that caused their unemployment, or not in a bargaining unit involved in the industrial controversy that caused their unemployment.

## NONMONETARY ELIGIBILITY

### NONSEPARATIONS

**ABILITY TO WORK**—Only minor variations exist in state laws setting forth the requirements concerning ability to work. A few states specify that an individual must be physically able, or mentally and physically able to work. Evidence of ability to work is the filing of claims and registration for work at a public employment office, required under most state laws. Missouri goes one step further requiring, by law, every individual receiving benefits to report in person to the nearest office at least once every four weeks.

Several states have added a provision that no individual who has filed a claim and has registered for work shall be considered ineligible during an uninterrupted period of unemployment because of illness or disability, so long as no work, which is suitable but for the disability, is offered and refused. These provisions are not to be confused with the special programs in six states for temporary disability benefits.

**AVAILABILITY FOR WORK**—Availability for work is often translated to mean being ready, willing, and able to work. Meeting the requirement of registration for work at a public employment office is considered as some evidence of availability. Nonavailability may be evidenced by substantial restrictions upon the kind or conditions of otherwise suitable work that an individual can or will accept, or by the refusal of a referral to suitable work made by the employment service, or of an offer of suitable work made by an employer.

The availability-for-work provisions are more varied than the ability-to-work provisions. Some states provide that an individual must be available for work; some for suitable work; and others for work in the individual's usual occupation or for which the individual is reasonably fitted by training and experience.

The following table indicates the states in which individuals are not ineligible due to illness or disability (occurring after the claim is filed and after registering for work) as long as no refusal of suitable work occurs after the beginning of the illness or disability.

Table 5-14: STATES WITH SPECIAL PROVISIONS FOR ILLNESS OR DISABILITY			
Alaska <sup>1</sup>	Delaware	Hawaii	Idaho <sup>2</sup>
Massachusetts <sup>3</sup>	Nevada	North Dakota <sup>4</sup>	Tennessee
Vermont			

<sup>1</sup> Waiver may not exceed six consecutive weeks  
<sup>2</sup> Only if no suitable work was available that would have paid wages greater than one-half of the individual's WBA  
<sup>3</sup> Provision applicable for three weeks only in a benefit year  
<sup>4</sup> Only if illness not covered by workers' compensation

**VACATION**—Georgia, Indiana, and West Virginia specify the conditions under which individuals on vacation are deemed unavailable or unemployed. Georgia limits to two weeks in any calendar year the period of unavailability of individuals who are not paid while on a vacation provided in an employment contract or by employer-established custom or policy. Mississippi considers an individual unavailable for work during a holiday or vacation period. In North Carolina, no individual shall be considered available for work for any week, not to exceed two weeks in any calendar year, in which the unemployment is due to a vacation. In Indiana, an individual is not considered unemployed if he or she is on a vacation week and is receiving, or has received, remuneration from the employer for that week. In addition, Indiana considers individuals to be employed if they are on a vacation week and have not received remuneration from the employer for that week because of a written contract between the employer and its workers, or because of the employer's regular vacation policy and practice (this provision applies only if the individual has reasonable assurance of employment available with the employer after the vacation period ends).

## NONMONETARY ELIGIBILITY

In Nebraska and New Jersey, no individual is deemed unavailable for work solely because he or she is on vacation without pay if the vacation is not the result of the individual's own action as distinguished from any collective bargaining or other action beyond the individual's control. Under New York law, an agreement by an individual or the individual's union or representative to a shutdown for vacation purposes is not in itself considered a withdrawal from the labor market or unavailability during the time of such vacation shutdown.

Other provisions relating to eligibility during vacation periods, although not specifically stated in terms of availability, exist in Virginia, where individuals are eligible for benefits only if they are not on a bona fide paid vacation; Washington provides that a cessation of operations by an employer for the purpose of granting vacations shall not be construed to be a voluntary quit or voluntary unemployment. Tennessee does not deny benefits during unemployment caused by a plant shutdown for vacation, provided the individual does not receive vacation pay. However, individuals who receive regular wages for a vacation under terms of a labor-management agreement will have their weekly benefit amount reduced by the amount of the wages received, but only if work will be available for the individuals with the employer at the end of the vacation period.

Nebraska provides that an individual is considered employed when wages are received for a specific time in which the vacation is actually taken during a time of temporary layoff or plant shutdown; vacation pay is prorated in an amount reasonably attributable to each week claimed and considered payable with respect to that week.

In Minnesota, vacation pay will not delay unemployment benefit eligibility to an applicant who has been indefinitely laid off due to lack of work as a result of adverse trade impacts and is not expected to be recalled within six months by the employer from which the applicant was laid off. This section does not apply to seasonal workers nor does it apply to temporary, indefinite, or seasonal separations.

**LOCALITY**—Alabama, Michigan, Ohio, and South Carolina require that individuals be available for work in the locality where their base-period wages were earned, or in a locality where similar work is available or where suitable work is normally performed. Illinois and Utah consider individuals to be unavailable if, after separation from their most recent work, they move to and remain in a locality where opportunities for work are substantially less favorable than those in the locality they left. Oregon, Utah, and Virginia consider individuals unavailable for work if they leave their normal labor market area for the major portion of a week unless the individuals can establish that they conducted a bona fide search for work in the labor market area where they spent the major part of the week.

In Wisconsin, an individual is not considered available for work in any week they are in a country other than the United States or Canada for more than 48 hours, unless the individual has authorization to work in that country and there is a reciprocal agreement with that country concerning the payment of unemployment benefits. In Utah, an individual located in a foreign country for three or more days of a week and who is otherwise eligible for benefits is only eligible to receive benefits for that week if the individual is legally authorized to work in the foreign country and the state and the foreign country have entered into a reciprocal agreement concerning the payment of unemployment benefits.

**AVAILABILITY DURING TRAINING**—FUTA requires, as a condition for employers in a state to receive credit against the Federal tax, that all state laws provide that compensation shall not be denied to an otherwise eligible individual for any week during which the individual is attending a training course with the approval of the state agency. Also, all state laws must provide that trade allowances not be denied to an otherwise eligible individual for any week during which the individual is in training approved under the Trade Act of 1974 because of leaving unsuitable employment to enter such training. In addition, the state law must provide that individuals in training not be held ineligible or disqualified for being unavailable for work, for failing to make an active search for work, or for failing to accept an offer of, or for refusal of, suitable work.

Federal law does not specify the criteria that states must use in approving training. Although some state laws have set forth the standards to be used, many do not specify the types of training that are approvable.

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Generally, approved training is limited to vocational or basic education training, thereby excluding regularly enrolled students from collecting benefits under the approved training provision.

Some states, in addition to providing regular benefits while the individual attends an industrial retraining or other vocational training course, provide for an extended duration of benefits while the individual remains in training/retraining. See Chapter 4 concerning programs for extended duration.

While in almost all states the participation of individuals in approved training courses is voluntary, in the District of Columbia and Washington an individual may be required to attend such training under certain circumstances.

In Oregon, individuals who do not attend their approved training during a particular week will be required to meet regular eligibility requirements for that week.

**AVAILABILITY FOR PART-TIME WORK**—Many states require individuals to be available for full-time work. Other states allow individuals to be available for part-time work under certain conditions. The following table indicates those states paying benefits to workers who seek only part-time employment. Please note that considerable differences may exist between states with entries in the same column.

<b>Table 5-15: STATES WITH AVAILABILITY OF PART-TIME WORKERS PROVISIONS</b>				
<b>States That Pay Benefits To Part-Time Workers Under Certain Conditions</b>				
State	If Otherwise Eligible	Claim Based on Part-Time Work, or History of Part-Time Work	Medical Restrictions or Restrictions Due to Disabilities	Other
AR	I	L		
CA		L		
CO		L, R		
CT			L, R	
DE		L <sup>1</sup>		Good Cause – I
DC				Good Cause – I
FL		I		
GA		L <sup>1</sup>		
HI		L		
IL			R	Only if part-time work is suitable because of circumstances beyond individual's control – R
ID		L <sup>1</sup>		
IA		L, R		
KS		L <sup>1</sup> , I		
LA		I		
ME		L, R	L, R <sup>2</sup>	L, R <sup>2</sup>
MD		L <sup>1</sup>		
MA		R	R	
MN		L		
MT		L	R	
NE		L <sup>1</sup>		

## NONMONETARY ELIGIBILITY

Table 5-15: STATES WITH AVAILABILITY OF PART-TIME WORKERS PROVISIONS				
States That Pay Benefits To Part-Time Workers Under Certain Conditions				
State	If Otherwise Eligible	Claim Based on Part-Time Work, or History of Part-Time Work	Medical Restrictions or Restrictions Due to Disabilities	Other
NV		R	I	I <sup>3</sup>
NH		L	L	R <sup>4</sup>
NJ		L, R		
NM	L, R <sup>3</sup>			L, R <sup>5</sup>
NY		L		
ND		I		
OH		I		
OK		L <sup>1</sup>		
OR			R	
PA	I <sup>6</sup>			
PR		I		
SC		L <sup>1</sup>		
SD		L <sup>1</sup>		
UT			R	
VT		I		
VA			I	
VI	L			
WA		L, R		
WY		R	R	

KEY: L = law , R = regulation, I = interpretation

<sup>1</sup> **DE** - if individual is willing to work at least 20 hours per week, is available for the number of hours comparable to part-time work in base period, or is available for the hours comparable to his or her work at the time of most recent separation; **GA**, **ID**, and **NM** - if individual is willing to work at least 20 hours per week; **KS** and **OK** - provided the individual is available for the number of hours per week that are comparable to part-time work experience in base period; **MD** - provided that the individual worked at least 20 hours per week in part-time work for a majority of the weeks of work in the base period and is in a labor market in which a reasonable demand exists for part-time work; **NE** - provided that the majority of weeks of work in the base period included part-time work and that the individual is available for at least 20 hours of work per week; **SC** and **SD** - provided the majority of weeks of work in the base period include part-time work.

<sup>2</sup> When majority of weeks in base period were full-time but individual is only able, available and seeking part-time work due to own or immediate family member's illness or disability, or when necessary for safety or protection of individual or immediate family member, including protection from domestic abuse.

<sup>3</sup> Student provision applies to high school students who can only work part-time while attending school.

<sup>4</sup> In certain circumstances, if individual is the only adult suitable to care for a child.

<sup>5</sup> Only for individuals who attend school full time and are actively seeking at least part-time work, and for whom school attendance was not a factor in separation from work.

<sup>6</sup> The Superior Court has stated that the availability requirement is met as long as an individual is ready, willing, and able to accept some substantial and suitable work.

Michigan and West Virginia require that an individual be available for full-time work. Pennsylvania considers an individual ineligible for benefits for any week in which his or her unemployment is due to failure to accept an offer of suitable full-time work to pursue seasonal or part-time work. New Hampshire requires that an individual be available for and seek temporary work, whether full-time or part-time, if permanent work for which the individual is qualified is not immediately available within the individual's labor market area, if the individual is reasonably expected to be recalled in 4 to 26 weeks, and if the wages, hours, and other conditions

## NONMONETARY ELIGIBILITY

of the temporary work are not substantially less favorable than those prevailing for similar temporary or permanent work in the locality.

*Note:* Since most state laws do not specify whether the individual must be available for full-time or part-time work, the previous table should be used with caution.

**ACTIVELY SEEKING WORK**—In addition to registration for work at a local employment office, all states, whether by law or practice, require that an individual be actively seeking work or making a reasonable effort to obtain work. The Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96) added an explicit statutory requirement to Federal law that individuals must be able to work, available for work, and actively seeking work to be eligible for regular unemployment compensation. The following table contains information on work search requirements and the necessity of searching for full-time or part-time work, by state. In some states, the required number of employer contacts may vary under certain circumstances, for example, during an EB period or depending on rural or urban area. Please note that this table is intended to provide a general overview of work search requirements in the states; it is not meant to be exhaustive. Please consult the appropriate state statute, regulation, or policy for more specific information on work search requirements.

Because states may not deny benefits to an individual in approved training, all states provide an exemption from the requirements to be able and available for work and conducting an active work search for any week the individual is in approved training. In addition, most states allow work search exemptions if the worker is union-attached and finds work through the union hall, though some states place a time limit on this exemption. Most states allow a work search exemption if a separation is classified as a temporary lay-off and there is a reasonable expectation that the worker will return to work soon. Other work search exemptions include that the worker has a specified start date for new employment, has jury duty, is an STC participant, has a compelling personal reason, is in a labor dispute with the employer, is the victim of domestic violence, or labor market or other information indicates no suitable employment.

Table 5-16: WORK SEARCH REQUIREMENTS			
State	Basis	Number of Employers Contacts Required per Week	Part-Time Work Search Acceptable
AL	L & R	≥1	
AK	L, R, & I	1 – 2 <sup>1</sup>	X
AZ	L, R, & I	4 <sup>2</sup>	
AR	L & R	≥2 <sup>1</sup>	X <sup>3</sup>
CA	L, R, & I	Agency determined	
CO	L & R	1 - 5 <sup>1, 4</sup>	X <sup>3</sup>
CT	L, R, & I	≥3	
DE	L & R	≥1 new	X <sup>2</sup>
DC	L & R	≥2	X
FL	L & R	≥3 - rural area, ≥5 - urban area <sup>4</sup>	X <sup>3</sup>
GA	L, R, & I	≥3 new	X <sup>3</sup>
HI	L & R	≥3	X <sup>3</sup>
ID	L & R	≥2 <sup>4</sup>	X <sup>3</sup>
IL	L, R, & I	Quality not quantity	X <sup>3</sup>

## NONMONETARY ELIGIBILITY

Table 5-16: WORK SEARCH REQUIREMENTS			
State	Basis	Number of Employers Contacts Required per Week	Part-Time Work Search Acceptable
IN	L & I	$\geq 3$	
IA	L, R, & I	$\geq 2^5$	X <sup>3</sup>
KS	L, R, & I	1 <sup>4</sup>	X <sup>3</sup>
KY	L & I	Unspecified – reasonable person	
LA	L, R, & I	3 - new, 1 - union members	
ME	L & R	$\geq 1$	
MD	L, R, & I	$\geq 2$ new	X <sup>3</sup>
MA	L & I	$\geq 3^6$	X <sup>2</sup>
MI	L & I	$\geq 2$	
MN	L, R, & I	Unspecified	X <sup>3</sup>
MS	L & R	3	
MO	L & I	2 – 3 <sup>1</sup>	
MT	L & R	$\geq 1$ new <sup>2</sup>	
NE	R & I	$\geq 5^{2,4}$	X <sup>3</sup>
NV	L & I	3 – 5 <sup>1</sup>	X <sup>3</sup>
NH	L, R, & I	Unspecified – reasonable person	X
NJ	R	$\geq 3^4$	X <sup>3</sup>
NM	L & R	$\geq 2$	X <sup>3</sup>
NY	L & R	$\geq 3^4$	X <sup>3</sup>
NC	L	$\geq 5$	
ND	L	4	X <sup>3</sup>
OH	L & I	2	X <sup>3</sup>
OK	L, R, & I	$\geq 2^4$	X <sup>3</sup>
OR	L, R, & I	5 <sup>2</sup>	X
PA	L & R	2 applications and 1 search activity <sup>5</sup>	X <sup>2</sup>
PR	L	1	X <sup>3</sup>
RI	L, R, & I	$\geq 3$	
SC	L	$\geq 4^{2,4}$	X <sup>3</sup>
SD	L, R, & I	2 <sup>4</sup>	X <sup>3</sup>
TN	L & R	$\geq 3^4$	
TX	L, R, & I	3 <sup>7</sup>	
UT	L, R, & I	4	
VT	L, R, & I	3	X
VA	L, R, & I	$\geq 2$	X
VI	R	$\geq 3$	
WA	L & R	$\geq 3^4$	X <sup>3</sup>

## NONMONETARY ELIGIBILITY

Table 5-16: WORK SEARCH REQUIREMENTS			
State	Basis	Number of Employers Contacts Required per Week	Part-Time Work Search Acceptable
WV	L,R, & I	Unspecified <sup>1</sup>	
WI	L&R	≥4 <sup>7</sup>	
WY	L&R	≥2	X <sup>3</sup>
<p>KEY: L = law , R = regulation, I = interpretation or policy</p> <p><sup>1</sup> Dependent on geography, labor market, union hall membership, or other factor.</p> <p><sup>2</sup> Limitations or specific requirements apply.</p> <p><sup>3</sup> Part-time work history required.</p> <p><sup>4</sup> May use employment services registration, access reemployment services, jobseeking workshop, or participate in job search activities. <b>NE</b> and <b>SC</b> require at least one contact through the state system.</p> <p><sup>5</sup> May be adjusted.</p> <p><sup>6</sup> Domestic violence accommodations.</p> <p><sup>7</sup> Agency may increase or direct.</p>			

The vast majority of states allow claimants to contact potential employers in person, over the telephone, through standard mail, through electronic means like fax or email, by filling out on-line applications, submitting resumes on-line, or through an employment agency. Additionally, several states allow for more varied forms of employer contact including: responding to job advertisements, uploading a resume to an on-line job market website, attending a job fair, taking a civil service test, participating in state reemployment services, or registering with a private employment services organization. In some states, union members are required to register with their appropriate local union hall.

Table 5-17: WORK SEARCH - REPORTING AND MONITORING				
State	Basis	Claimant Reporting of Work Search Activities		Frequency of Monitoring
		Frequency	Method of Reporting	
AL	L & R	Weekly	Eligibility review	Random eligibility review
AK	L, R, & I	Weekly	Paper, phone, or internet	At random by Quality Control Unit
AZ	L, R, & I	Weekly	Paper or internet	Each weekly claim
AR	L & R	Weekly	Phone or paper	Random audit
CA	L, R, & I	Upon request	Interview	Eligibility review
CO	L & R	Bi-weekly	Part of continued claim process	Random or targeted audits
CT	L, R, & I	Weekly	Part of audit	Random or targeted audits
DE	L & R	Weekly	Part of weekly claim	Random audits
DC	L & R	With continued claim	Part of continued claim	Through normal BAM compliance
FL	L & R	Bi-weekly with continued claim	Part of continued claim	Random weekly audits
GA	L, R, & I	Weekly	Online or fax	Unspecified

## NONMONETARY ELIGIBILITY

Table 5-17: WORK SEARCH - REPORTING AND MONITORING				
State	Basis	Claimant Reporting of Work Search Activities		Frequency of Monitoring
		Frequency	Method of Reporting	
HI	L & R	Weekly	Telephone survey questions	Incomplete work search triggers REA or eligibility review
ID	L & R	Weekly	Online with continued claim	Random or targeted audits
IL	L, R, & I	Upon request	In writing	Unspecified
IN	L & I	Weekly	With weekly claim	Unspecified
IA	L, R, & I	Able to report with continued claim, but not required	Upon request	During REA assessment and BAM audits
KS	L, R, & I	Weekly	Upon request	BAM audits
KY	L & I	Weekly	Upon request	Random eligibility review
LA	L, R, & I	Eligibility review every 6 weeks	Upon request	Eligibility review every 6 weeks
ME	L & R	Mandatory contact log upon request	Mandatory contact log upon request	Random audits or BAM audits
MD	L, R, & I	Weekly	Upon request	Random telephone interview
MA	L & I	Weekly	Upon request	Random audit or REA
MI	L & I	Monthly	Online, mail, in-person	Random audit by BAM staff
MN	L, R, & I	Upon request	Online	Random audit/ worker profiling
MS	L & R	Weekly	Online	Random audit
MO	L & I	Weekly	Online, phone, or mail	Weekly and random eligibility reviews
MT	L & R	Weekly	Weekly claim	Random audits and BAM
NE	R & I	Weekly	Online	Random audit
NV	L & I	Weekly	Contact log	REA, random audit
NH	L, R, & I	Weekly	Part of weekly claim	REA or eligibility review
NJ	R	Bi-weekly	Telephone, online, or by mail.	Random weekly audits, BAM
NM	L & R	Weekly	Upon request	Random audit
NY	L & R	Weekly	Upon request	Random audit
NC	L	Weekly	Upon request	Unspecified
ND	L	Weekly (online) monthly (by other means)	Online or in event of eligibility review every 4 weeks	Random audit

## NONMONETARY ELIGIBILITY

Table 5-17: WORK SEARCH - REPORTING AND MONITORING				
State	Basis	Claimant Reporting of Work Search Activities		Frequency of Monitoring
		Frequency	Method of Reporting	
OH	L & I	Weekly	With continued claim	Random audit and BAM
OK	L, R, & I	Weekly	Upon request by mail, fax, or online	Random audit
OR	L, R, & I	Weekly	With continued claim	REA
PA	L & R	Weekly	Upon request	Random audit
PR	L	Weekly	Upon request	Unspecified
RI	L, R, & I	Weekly	Upon request	REA
SC	L	Weekly	Upon request	Eligibility review
SD	L, R, & I	Weekly	With continued claim	Random weekly audit
TN	L & R	Weekly	Upon request	Random weekly audits
TX	L, R, & I	Weekly	Upon request	Random audits
UT	L, R, & I	Weekly	With weekly continued claim	Random audits, REA, and worker profiling
VT	L, R, & I	Weekly	With weekly continued claim, online	Random audits
VA	L & R	Weekly	With weekly continued claim	Random audit
VI	R	Weekly	Upon request	Random audit
WA	L & R	Weekly	Upon request	Random audit and upon request
WV	L, R, & I	Weekly	Upon request	Random audit and REA screening
WI	L & R	Weekly	Upon request	Random audits
WY	L & R	Weekly	Upon request	State reviews a randomly chosen 2-week log of the first 4 weeks claimed

KEY: L = law , R = regulation, I = interpretation or policy; BAM = Benefit Accuracy Measurement;  
REA = Reemployment Eligibility Assessment

**REFUSAL OF WORK**—All state laws address refusal of suitable work, though they vary concerning the extent of the disqualification imposed. FUTA provides that all state laws must also consider the labor market and certain labor standards. Specifically, benefits will not be denied to an otherwise eligible individual for refusing to accept new work if:

- the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or
- as a condition of being employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization.

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**Criteria for Suitable Work**—All states look at whether the work refused was suitable. When state laws list the criteria for suitability, they usually address the degree of risk to an individual's health, safety, and morals; the individual's physical fitness, prior training, experience, and earnings; the length of unemployment and prospects for securing local work in a customary occupation; and the distance of the available work from the individual's residence. Delaware and New York make no reference to the suitability of work offered but provide for disqualification for refusals of work for which an individual is reasonably fitted. South Carolina specifies that whether work is suitable must be based on a standard of reasonableness as it relates to the particular individual involved.

Connecticut does not deem work suitable if, as a condition of being employed, the individual would be required to agree not to leave the position if recalled by his or her previous employer. In Louisiana, an individual may refuse work if the remuneration from the employer is below 60 percent of the individual's highest rate of pay in the base period. In Wisconsin, an individual has good cause during the first six weeks of unemployment for refusing work at a lower grade of skill or significantly lower rate of pay than one or more recent jobs. New Hampshire requires that for work to be deemed suitable, the hourly rate when multiplied by 40 must be equal to or greater than 150 percent of the individual's weekly benefit amount.

**Distance**—In Alabama and West Virginia, no work is unsuitable because of distance if it is in substantially the same locality as the last regular employment which the individual left voluntarily without good cause connected with the employment. In Indiana, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training, experience, and physical capacity to perform, is suitable work unless a bona fide change in residence makes such work unsuitable because of the distance involved. Delaware, New York, and Ohio provide that no refusal to accept employment shall be disqualifying if it is at an unreasonable distance from the individual's residence or the expense of travel to and from work is substantially greater than that in the former employment, unless provision is made for such expense.

**Personal/Family Reasons**—Maine does not impose a disqualification for refusal of suitable work if an individual refuses a position on a shift, the greater part of which falls between midnight and 5 a.m., and the individual is prevented from accepting the job because of family obligations. Maine also excludes from suitable work a job the individual previously vacated if the reasons for leaving have not been removed or changed; in addition, if an individual has refused work for a compelling reason, the disqualification will be terminated when the individual is again able and available for work. New Hampshire does not disqualify an individual who is unable to accept or unavailable for suitable, permanent full-time work in a given shift if the individual is the only available adult to care for an ill, infirm, or physically or mentally disabled family member. In addition, New Hampshire does not impose a disqualification for refusing to accept new work if the individual is unable to accept work during the hours of a particular shift because of the family obligations previously described.

**Union/Collective Bargaining Issues**—Ohio and New York do not consider suitable any work that an individual is not required to accept pursuant to a labor-management agreement. Illinois does not disqualify an individual for refusing new work if the position offered is a transfer to other work offered to the individual by the employing unit under the terms of a collective bargaining agreement or pursuant to an established employer plan, program, or policy, when the acceptance of such other work by the individual would require the separation from that work of another individual currently performing it. Iowa does not disqualify an individual for failure to apply for or accept suitable work if the individual left work in lieu of exercising a right to bump or oust an employee with less seniority. In Oregon, an individual will not be disqualified for refusal of suitable work if the employer unilaterally modified the amount of wages agreed upon by the individual's collective bargaining unit and the employer. In Pennsylvania, an individual will not be disqualified for refusal of suitable work when the work is offered by his or her employer, and the individual is not required to accept the offer pursuant to terms of a union contract, agreement, or an established employer plan, program, or policy. In New York, an individual not subject to recall or who does not obtain employment through a union hall and is still unemployed after

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receiving 10 weeks of benefits is required to accept employment that the individual is capable of doing, provided the employment would result in a quarterly wage not less than 80 percent of the high quarter in the base period or the wages prevailing for similar work in the locality, whichever is less.

**Drug Testing Issues**—In a few states an individual is considered to have refused an offer of suitable work if an employer withdraws an offer of work after the individual tests positive for drugs after a drug test given on behalf of the prospective employer as a condition of an offer of employment, or if the individual refuses, without good cause, to submit to a drug test required by the prospective employer as a condition of an offer of employment.

**Duration of Unemployment**—A few states provide for changing the definition of suitable work as the duration of the individual's unemployment grows. The suitability of the offered wage is the factor states have chosen to alter. For example, Florida requires the agency, in developing rules to determine the suitability of work, to consider the duration of the individual's unemployment and the wage rates available. In addition, Florida law specifies that, after an individual has received 25 weeks of benefits in a single year, suitable work will be a job that pays the minimum wage and is 120 percent or more of the individual's weekly benefit amount.

Idaho law merely requires individuals to be willing to expand their job search beyond their normal trade or occupation and to accept work at a lower rate of pay to remain eligible for benefits as the length of their unemployment grows. Utah considers all earnings in the base year, not just earnings from the most recent employer, in the determination of suitable work and specifies that the agency will be more prone to consider work suitable the longer the individual is unemployed and less likely to secure local work in his or her customary occupation. Wyoming applies the refusal-of-suitable work disqualification if, after four weeks of unemployment, the individual fails to apply for and accept suitable work other than in his or her customary occupation offering at least 50 percent of the compensation earned in his or her previous occupation.

Georgia specifies that, after an individual has received 10 weeks of benefits, no work will be considered unsuitable if it pays wages equal to at least 66 percent of the individual's highest quarter earnings in the base period and is at least equal to the Federal or state minimum wage.

Iowa law specifies that work is suitable if it meets the other criteria in the law and the gross weekly wage of the offered work bears the following relationship to the individual's high-quarter average weekly wage: 1) 100 percent during the first five weeks of unemployment; 2) 75 percent from the 6th through the 12th week of unemployment; 3) 70 percent from the 13th through the 18th week of unemployment; and 4) 65 percent after the 18th week of unemployment. No individual, however, is required to accept a job paying below the Federal minimum wage. Tennessee uses a similar percentage reduction system for suitable wage but the numbers of weeks required for each period of unemployment are different.

After 10 weeks of unemployment, Maine no longer considers the individual's prior wage in determining whether work is suitable. After eight weeks of unemployment, Mississippi law specifies that work is suitable if the offered employment pays the minimum wage or higher and the wage is that prevailing for the individual's customary occupation or similar work in the locality. Montana, after 13 weeks of unemployment, specifies that a suitable work offer need only include wages equal to 75 percent of the individual's earnings in his or her previous customary insured work, but not less than the Federal minimum wage. After 10 weeks of unemployment, North Carolina considers any employment offer paying 120 percent of the individual's weekly benefit amount to be suitable work. North Dakota law specifies that after an individual has received 18 weeks of benefits, suitable work will be any work that pays wages equal to the maximum weekly benefit amount, providing that consideration is given to the degree of risk involved to the individual's health, safety, morals, and physical fitness, and the distance of the work from his or her residence.

In Michigan, an individual will be denied benefits for refusing an offer of suitable work paying at least 70 percent of the gross pay rate received immediately before becoming unemployed, but, after an individual has

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received 50 percent of his or her benefit entitlement for the year, work will not be considered unsuitable because it is outside the individual's training or experience, or because of pay rate as long as the pay rate meets or exceeds the minimum wage, is at least the prevailing mean wage for similar work in the locality, and the pay rate is 120 percent or more of the individual's weekly benefit amount.

**Period of Disqualification**—Some states disqualify for a specified number of weeks any individual who refuses suitable work, while other states postpone benefits for a variable number of weeks.

More than half of the states disqualify, for the duration of the unemployment or longer, individuals who refuse suitable work. Most of these states specify an amount that the individual must earn or a period of time the individual must work to remove the disqualification.

Of the states that reduce potential benefits for refusal of suitable work, the majority provide for reduction by an amount equal to the number of weeks of benefits postponed.

**Table 5-18: REFUSAL OF SUITABLE WORK - DISQUALIFICATION**

State	Benefits Postponed for:		Benefits Reduced
	Number of Weeks	Weeks and/or Wages to Requalify <sup>1</sup>	
AL	W + 1 - 10		
AK	W + 5		3 x WBA
AZ		8 x WBA	
AR		At least 30 days of covered work	
CA	W + 1 - 9 <sup>2</sup>		
CO	W + 20		Equal
CT		6 x WBA	
DE		4 weeks of work and 4 x WBA	
DC		10 weeks of work and wages equal to 10 x WBA	
FL	W + 1 - 5 <sup>3</sup>	17 x WBA <sup>3</sup>	Optional
GA		10 x WBA <sup>4</sup>	
HI		5 x WBA	
ID		14 x WBA	
IL		Wages equal to WBA in each of 4 weeks	
IN		Wages in each of 8 weeks and wages $\geq$ 8 x WBA	1 <sup>st</sup> refusal - 75%; 2 <sup>nd</sup> - 85%; 3 <sup>rd</sup> - 90%
IA		10 x WBA	
KS		3 x WBA	
KY		10 weeks of covered work plus 10 x WBA	
LA		10 x WBA	

## NONMONETARY ELIGIBILITY

**Table 5-18: REFUSAL OF SUITABLE WORK - DISQUALIFICATION**

State	Benefits Postponed for:		Benefits Reduced
	Number of Weeks	Weeks and/or Wages to Requalify <sup>1</sup>	
ME		10 x WBA	
MD	W + 5 - 10 <sup>3</sup>	10 x WBA	
MA	W + 7		Up to 8 weeks
MI	W + 13		Equal in current BY <sup>3</sup>
MN	W + 7		
MS	W + 1 - 12		
MO		10 x WBA	
MT		6 x WBA	Equal
NE	12		Equal
NV		Wages equal to WBA in each week up to 15	
NH		5 weeks of covered work with earnings equal to 20% more than WBA in each week	
NJ	W + 3		
NM		5 x WBA	Equal
NY		10 x WBA	
NC	X <sup>5</sup>	10 x WBA earned in at least 5 weeks	X <sup>5</sup>
ND		10 x WBA	
OH		6 weeks in covered work + wages equal to 27.5% of state AWW	
OK		10 x WBA <sup>6</sup>	
OR		4 x WBA	8 x WBA
PA		X <sup>7</sup>	
PR		4 weeks of work and wages equal to 10 x WBA	
RI		8 x WBA	
SC		8 x WBA	
SD		6 weeks of covered work and wages equal to WBA in each week	
TN		10 x WBA in covered work	
TX		6 weeks of work or wages equal to 6 x WBA (applies to any refusal within BY)	
UT		6 x WBA	
VT		6 x WBA	

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**Table 5-18: REFUSAL OF SUITABLE WORK - DISQUALIFICATION**

State	Benefits Postponed for:		Benefits Reduced
	Number of Weeks	Weeks and/or Wages to Requalify <sup>1</sup>	
VA		30 days or 240 hours of work	
VI		4 weeks of work and 4 x WBA	
WA		7 weeks and earnings in bona fide work of 7 x WBA	
WV	W + 4 <sup>8</sup>		Equal
WI		6 x WBA	
WY		8 x WBA	

KEY: W = Week of refusal “Equal” indicates reduction equal to WBA multiplied by number of weeks of disqualification.

<sup>1</sup> Minimum employment or wages required to requalify for benefits.

<sup>2</sup> **CA** - must be weeks in which individual meets reporting and registration requirements. Also, agency may add 1-8 weeks for successive disqualification.

<sup>3</sup> **FL** - both term and duration of unemployment disqualifications are imposed. Aliens who refuse resettlement or relocation employment are disqualified 1-17 weeks, or reduction by not more than five weeks. **MI** - individual may be eligible for benefits in subsequent benefit year based on base period wages earned subsequent to refusal. **MD** - either disqualification may be imposed at discretion of agency.

<sup>4</sup> Individual must work for a liable employer and become unemployed through no fault of his or her own.

<sup>5</sup> Disqualification may run into next benefit year which begins within 12 months after end of current year. Also, a permanent disqualification may be reduced to a time certain disqualification, but not less than five weeks, with a corresponding reduction in benefits (weeks of disqualification x WBA).

<sup>6</sup> An individual who refuses an offer of work due to illness, death of a family member, or other circumstances beyond the individual's control will be disqualified for the week of occurrence.

<sup>7</sup> Until an individual obtains work not of a casual or temporary nature; however, if work refused was casual or temporary, then disqualification is for an equal period of time.

<sup>8</sup> Plus such additional weeks as offer remains open.

## SPECIAL GROUPS

All state laws contain provisions addressing special groups of workers. FUTA requires the denial of benefits under certain circumstances to professional athletes, some aliens, and certain school personnel, while it also prohibits states from denying benefits solely on the basis of pregnancy or the termination of pregnancy. Like the FUTA provisions, most of these special provisions restrict benefits more than the usual disqualification provisions.

**STUDENTS**—Most states exclude from coverage service performed by students for educational institutions. In addition, many states have special provisions limiting the benefit rights of students who have had covered employment. In some of these states, the disqualification is for the duration of the unemployment; in others, it is during school attendance or during the school term.

Many states disqualify individuals during school attendance and some states extend the disqualification to vacation periods.

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**Table 5-19: TREATMENT OF STUDENTS**

State	Disqualified for Leaving Work to Attend School	Disqualified or Ineligible While Attending School	State	Disqualified for Leaving Work to Attend School	Disqualified or Ineligible While Attending School
AL	Yes	Yes, ineligible if school hours overlap normal work hours	AK	Yes, if leaving skilled work or not attending approved training	Yes, unless student pursued an academic education for a school term and worked 30 hours a week, and the academic schedule did not preclude full-time work in the student's occupation, and if the student was laid off <sup>1</sup>
AZ	Yes, unless leaving to resume approved training or if work hinders the student from making satisfactory progress in approved training	Yes, unless there is a pattern of concurrent, full-time work and full-time school attendance for the nine-month period before the filing of an initial claim for UI benefits, and the student has not left or refused full-time work, or reduced the hours of work to part-time to attend school	AR	Yes	Yes, except while attending a vocational school for a demand occupation and other training as long as the student is making reasonable efforts to obtain employment and doesn't refuse suitable work
CA	Yes, except if attending union apprenticeship school or approved for training benefits	Yes, ineligible unless student has a part-time seek-work plan or is available for full-time work in labor market during school <sup>1</sup>	CO	Yes <sup>1</sup>	No, provided school attendance does not interfere with ability to accept suitable work <sup>1</sup>
CT	Yes <sup>1</sup>	Yes, ineligible except student who becomes unemployed while attending school if work search is restricted to employment that does not conflict with regular class hours and if student was employed on a full-time basis during the 2 years prior to separation while in school <sup>1</sup>	DE	Yes	No, if student determined to be primarily a worker who happens to attend school
DC	Yes	No, provided school is not an undue restriction on availability	FL	Yes	No, provided school attendance does not interfere with availability to accept suitable work
GA	Yes, unless Trade Act training	No, provided school attendance does not interfere with availability to work, and the student is actively seeking work	HI	Yes	Yes, must be available for work and willing to quit school, except for approved training.
ID	Yes	Yes, unless attending approved training <sup>1</sup>	IL	Yes, unless Trade Act training	Yes, ineligible when principal occupation is student unless attends approved training <sup>1</sup>
IN	Yes, unless Trade Act training	No, provided school attendance does not interfere with availability to accept work, and the student is actively seeking work	IA	Yes	No, eligible if school attendance does not interfere with ability to accept suitable work
KS	Yes, unless Trade Act training	Yes, disqualified, including vacation periods, unless full-time work is concurrent with school attendance, or school schedule does not affect availability for work <sup>1</sup>	KY	Yes	No, provided school attendance does not interfere with ability to accept suitable work
LA	No	Yes, ineligible, including vacation periods, unless student loses job while in school and is available for suitable work <sup>1</sup>	ME	Yes	Yes, disqualified unless student is available for full-time work while in school, or would leave school for full-time work, or is in approved training

## NONMONETARY ELIGIBILITY

**Table 5-19: TREATMENT OF STUDENTS**

State	Disqualified for Leaving Work to Attend School	Disqualified or Ineligible While Attending School	State	Disqualified for Leaving Work to Attend School	Disqualified or Ineligible While Attending School
MD	Yes <sup>1</sup>		MA	Yes	No, provided industrial or vocational training is found to be necessary to obtain suitable work; must be full-time and less than one year in length <sup>2</sup>
MI	Yes <sup>1</sup>	Yes, ineligible unless student agrees to quit school/change class schedule to accept work, or is in approved training	MN	Yes, unless entering approved training	Yes, ineligible unless willing to quit school, except for approved training <sup>1</sup>
MS	Yes	No, provided school hours do not interfere with availability for full-time work	MO	Yes	Yes, ineligible if there is a significant restriction on availability; some part-time students may be eligible; does not apply to Trade Act
MT	No	No, provided that student can demonstrate that s/he meets general eligibility requirements	NE	Yes	Yes, disqualified unless major part of BPW were for services performed while attending school <sup>1</sup>
NV	Yes, unless approved training or high school student who must legally attend school	No, if school attendance does not interfere with ability to seek and accept suitable work	NH	Yes	No, provided student is available for and seeking permanent full-time work during all the shifts and all the hours there is a market for his or her services
NJ	Yes, except for approved training	Yes, disqualified, including vacation periods, unless student earned wages sufficient to qualify for benefits while attending school <sup>1</sup>	NM	Yes	Yes, unless the student is able, available and seeking at least part-time work, or in approved training <sup>1</sup>
NY	No	No, provided school attendance does not interfere with availability to accept work, and the student is actively seeking work	NC	No	No, unemployed individual not necessarily unavailable for or unable to work while attending school and not ineligible solely on basis of attending school
ND	No	Yes, disqualified unless major part of BPW were for services performed while attending school <sup>1</sup>	OH	Yes, unless Trade Act training	No, if becomes unemployed while attending school, BPW were at least partially earned while attending school, meets availability and work search requirements, and if available for suitable employment on any shift <sup>1</sup>
OK	No	No, provided student offers to quit school, adjust class hours, or change shifts to secure employment <sup>1</sup>	OR	Yes, unless required by law to attend school <sup>2</sup>	No, provided school attendance does not interfere with availability to seek and accept suitable work
PA	Yes, unless Trade Act training and job paid less than 80% of Trade Act job and was at lesser skill level	No, provided able and available for suitable work (does not have to be full-time work)	PR		
RI	Yes, unless Trade Act training	Yes, disqualified unless hours of school do not interfere with hours of work in student's occupation	SC	Yes	No, not disqualified if student offers to quit school, adjust class hours or change shifts to secure employment; must make a work search each week
SD	Yes	Yes, ineligible if determined principally occupied as a student	TN	No	No, unless school attendance interferes with availability for suitable work

## NONMONETARY ELIGIBILITY

Table 5-19: TREATMENT OF STUDENTS					
State	Disqualified for Leaving Work to Attend School	Disqualified or Ineligible While Attending School	State	Disqualified for Leaving Work to Attend School	Disqualified or Ineligible While Attending School
TX	Yes <sup>1</sup>	Yes, eligible if willing to quit school or change class schedule to accommodate full-time work <sup>1</sup>	UT	Yes <sup>2</sup>	No, disqualified when school attendance is a restriction to availability for full-time suitable work, unless in an approved training program <sup>2</sup>
VT	Yes	Yes, if claim is based on part-time employment and student remains available for part-time work while attending school	VA	Yes <sup>3</sup>	Yes, unless attendance would limit availability for only one of multiple shifts in usual occupation
VI	No	No	WA	Yes, unless approved apprentice training or Trade Act training	Yes, disqualified if registered at a school that provides instruction of 12 or more hours per week, unless in approved training or demonstrates evidence of availability for work <sup>1</sup>
WV	Yes, unless previously enrolled in approved training <sup>1</sup>	No, provided student is in approved vocational training or if student is willing to drop or rearrange classes if suitable work were offered	WI	Yes, unless Trade Act training	Yes, unless student is available for full-time first shift work
WY	Yes, unless previously enrolled in approved training	Yes, disqualified unless major part of BPW were for services performed while attending school			

NOTE: Unless otherwise indicated, state is applying its voluntary quit or availability provisions

<sup>1</sup> State statutes specifically mention students.  
<sup>2</sup> Regulations specifically mention students.  
<sup>3</sup> Based upon case law; includes rebuttable presumption that graduate students working only between semesters quit to return to school.

**SCHOOL PERSONNEL**—FUTA requires states to deny benefits to instructional, research, or principal administrative employees of educational institutions between successive academic years or terms if the individual performed such instructional, research, or administrative services in the first year or term and has a contract or reasonable assurance of performing such services in the second year or term.

FUTA also requires states to deny benefits to instructional, research, or principal administrative employees of educational institutions who perform services in regular but non-successive years or terms (for example, only the first semester of each academic year). These individuals are not eligible for compensation based on such services during the entire period between the regular but non-successive academic years or terms. This between terms denial also applies to vacation or holiday periods within school years or terms.

FUTA permits a state, at its option, to deny benefits between successive academic years or terms to other employees of a school or of an educational service agency who perform services for or on behalf of an educational institution if the individual performed services (other than the three types previously described) during the year or term and has a reasonable assurance or a contract to perform services in the second year or term. The option for denial of benefits also applies to vacation or holiday periods within school years or terms. However, FUTA requires states to pay benefits retroactively to school personnel performing these “other” services if they were given reasonable assurances of reemployment but were not, in fact, rehired when the new school term or year began.

**PROFESSIONAL ATHLETES**—FUTA requires states to deny benefits to an individual between two successive sport seasons if substantially all of the individual’s services in the first season consist of participating in or preparing to participate in sports or athletic events and the individual has a reasonable assurance of performing similar services in the second season. The term “athlete” may include ancillary personnel involved

## **NONMONETARY ELIGIBILITY**

with the team or event such as managers, coaches, and trainers employed by professional teams, and referees and umpires employed by professional leagues or associations. Whether the denial is extended to these other groups is a state option.

**ALIENS**—FUTA requires denial of benefits to certain aliens. Benefits may not be paid based on service performed by an alien unless the alien is one who: 1) was lawfully admitted for permanent residence at the time the services were performed and for which the wages paid are used as wage credits; 2) was lawfully present in the United States to perform the services for which the wages paid are used as wage credits; or 3) was permanently residing in the United States “under color of law,” including one lawfully present in the United States under provisions of the Immigration and Nationality Act. (Note that aliens must also be legally authorized to work to be considered available for work.)

To avoid discriminating against certain groups in the administration of this provision, Federal law requires that the information designed to identify ineligible aliens must be requested of all individuals. Whether or not the individual is in satisfactory immigration status is determined by a preponderance of the evidence.

## **DEDUCTIBLE INCOME**

Almost all state laws provide that an individual will not receive UI for any week during which the individual is receiving or is seeking benefits under any Federal or other state UI law. A few states specifically mention benefits under the Federal Railroad Unemployment Insurance Act. Under most of the laws, no disqualification is imposed if it is finally determined that the individual is ineligible under the other law. The intent is to prevent duplicate payment of benefits for the same week. These disqualifications apply only to the week in which or for which the other payment is received.

Most states have statutory provisions that an individual is ineligible for any week during which the individual receives or has received certain other types of remuneration, such as wages in lieu of notice, dismissal wages, worker’s compensation, holiday and vacation pay, back pay, and benefits under a supplemental unemployment benefit plan. In many states, if the payment is less than the weekly benefit amount, the individual receives the difference; in other states, no benefits are payable for a week of such payments regardless of the amount of payment. A few states provide for rounding the resultant benefits, like payments for weeks of partial unemployment, to half dollar or full dollar amounts.

**WAGES IN LIEU OF NOTICE AND DISMISSAL PAYMENTS**—A considerable number of states consider wages in lieu of notice to be deductible income. Many states have the same provision for receipt of dismissal payments as for receipt of wages in lieu of notice. The state laws use a variety of terms such as dismissal allowance, dismissal payments, dismissal wages, separation allowances, termination allowances, severance payments, or some combination of these terms. In many states, all dismissal payments are included as wages for contribution purposes, as they are under FUTA. Other states exclude dismissal payments that the employer is not legally required to make. To the extent that dismissal payments are included in taxable wages for contribution purposes, individuals receiving such payments may be considered not unemployed, or not totally unemployed, for the weeks concerned.

However, under rulings in some states, individuals who received dismissal payments have been held to be unemployed because the payments were not made for the period following their separation from work but, instead, with respect to their prior service.

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**Table 5-20: STATES WITH WAGES IN LIEU OF NOTICE AND DISMISSAL PAYMENTS PROVISIONS**

State	Wages	Dismissal	State	Wages	Dismissal	State	Wages	Dismissal
AK	R	R	AZ	D (not considered unemployed)		AR	D	D
CA	R: By interpretation		CO	R	L: Benefits postponed for number of weeks equal to total amount of additional remuneration divided by usual weekly wage	CT	D	D: Not applicable to severance or accrued leave pay based on service for the Armed Forces
DE		R	DC		R	FL	R	D <sup>1</sup>
GA	D	D	IL	R: By regulation		IN	R: Excludes greater of first \$3 or 1/5 WBA from other than base-period employer	
IA	R	R	KS		R	KY	R	
LA	R	R: But not less than 1 week for each week a base-period employer provided severance pay equaling or exceeding WBA	ME	R	R	MD	R	
MA	D		MI	R	R	MN	R	R
MO	R		NE	D	D	NV	D	D
NH	R	R	NJ	D		NM	R: By regulation	
NY		R <sup>2</sup>	NC	D	D	OH	R	R: Not applicable to severance or accrued leave pay based on service for the Armed Forces
PA		R <sup>3</sup>	RI		D <sup>4</sup>	SD	R	R
TN	D	D <sup>5</sup>	TX	D	D	UT	R	R
VT	D	D	VA	R	R: Only when allocated by the employer to specific pay periods	WA	R	R <sup>6</sup>

## NONMONETARY ELIGIBILITY

Table 5-20: STATES WITH WAGES IN LIEU OF NOTICE AND DISMISSAL PAYMENTS PROVISIONS								
State	Wages	Dismissal	State	Wages	Dismissal	State	Wages	Dismissal
WV	D		WI		R: Only when allocated by close of week, payable at full applicable wage rate, and individual had notice of allocation <sup>7</sup>	WY	D	D
<p>R = weekly benefit reduced by weekly prorated amount of the payment    D = all benefits denied for the week of receipt</p> <p><sup>1</sup> Number of weeks of disqualification equals amount of severance pay divided by individual's AWW received from employer that paid severance pay, rounded down to nearest whole number, beginning with week of separation.</p> <p><sup>2</sup> Does not apply during any weeks in which the initial payment of dismissal pay is made more than 30 days from the last day of the individual's employment.</p> <p><sup>3</sup> WBA reduced by amount of severance pay attributed to the week. Amount of severance pay attributed shall be an amount not less than zero determined by subtracting, from total amount of severance pay, 40 percent of AAW as calculated as of June 30 immediately preceding calendar year in which benefit year begins.</p> <p><sup>4</sup> Severance pay shall be allocated on a weekly basis from last day worked for a period not to exceed 26 weeks. If employer does not specify set number of weeks, severance pay shall be allocated using individual's WBA.</p> <p><sup>5</sup> Benefits denied if severance package from employer is equal to the salary individual would have received if individual was working.</p> <p><sup>6</sup> Previously accrued compensation except severance pay, when assigned to a period of time by collective bargaining or trade practices; negotiated settlements or proceeds given for early termination of an employment contract.</p> <p><sup>7</sup> Individual is ineligible for benefits for any week in which s/he receives 32 hours or more of termination pay totaling over \$500, by itself or in combination with wages.</p>								

**WORKERS' COMPENSATION PAYMENTS**—Nearly half of the state laws list workers' compensation under any state or Federal law as disqualifying income. Some disqualify for the week concerned; others consider workers' compensation to be deductible income and reduce unemployment benefits payable by the amount of the workers' compensation payments. A few states reduce the unemployment benefit only if the workers' compensation payment is for temporary partial disability.

Table 5-21: STATES WITH WORKERS' COMPENSATION PROVISIONS									
State		State		State		State		State	
AL	R	CA	R	CO	R	CT	D	DE	R
FL	R	GA	D	ID	R	IL	R	IA	R
KS	D	LA	R	MA	D	MN	R	MO	R
MT	D	NE	R	NV	D	NH	R	NY	R
OH	R	RI	R	SD	R	TN	D	TX	D
UT	D	VT	D	VA	R	WA	D	WV	D
WI	R								
<p>R = weekly benefit reduced by weekly prorated amount of the payment    D = all benefits denied for the week of receipt</p>									

**VACATION PAY, HOLIDAY PAY, AND BACK PAY**—Many states consider individuals receiving vacation pay as not eligible for benefits; several states hold individuals eligible for benefits if they are on vacation without pay through no fault of their own. In practically all states, as under FUTA, vacation pay is considered wages for contribution purposes – in a few states, in the statutory definition of wages; in others, in official explanations, general counsel or attorney general opinions, interpretations, regulations, or other publications of the state agency. Thus, an individual receiving vacation pay equal to his or her weekly benefit

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amount would, by definition, not be unemployed and would not be eligible for benefits. Some of the explanations point out that vacation pay is considered wages because the employment relationship is not discontinued, and others emphasize that an individual on vacation is not available for work. Vacation payments made at the time of severance of the employment relationship, rather than during a regular vacation shutdown, are considered disqualifying income in some states only if such payments are required under contract and are allocated to specified weeks; in other states, such payments, made voluntarily or in accordance with a contract, are not considered disqualifying income.

**Table 5-22: STATES WITH HOLIDAY PAY, BACK PAY, AND VACATION PAY PROVISIONS**

State	Holiday	Back Pay	Vacation	State	Holiday	Back Pay	Vacation
AL		D		AK	R	R: Employer withholds amount of benefits paid and remits to UI agency	R
AR	R: WBA minus holiday pay in excess of 40% of WBA		R: WBA minus vacation pay in excess of 40% of WBA	CA	R	R	
CO	Treated as wages in the week in which the holiday occurred	R: Employer withholds amount of benefits paid and remits to UI agency	D	DE		R	
DC		Employer withholds amount of benefits paid and remits to UI agency		GA		Employer withholds amount of benefits paid and remits to UI agency	D
HI	R	R	R: If continued attachment to employer	ID	R	R/D: Depending on amount	D
IL	R	R: When individual is reinstated after suspension/discharge and receives full compensation for period if charges reversed	R	IN	R: Excludes greater of first \$3 or 1/5 WBA from other than BP employer	R: Excludes greater of first \$3 or 1/5 WBA from other than BP employer; employer withholds amount of benefits paid and remits to UI agency	R: Excludes greater of first \$3 or 1/5 WBA from other than BP employer
IA			R: If employer designates a specific vacation period, benefits are reduced for that period of time; if not, reduction is limited to 1 week	KS	R	D: Employer withholds amount of benefits paid and remits to UI agency	R
KY		R: Benefits will be reduced 100% for overpayments caused by back pay award		LA			R

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**Table 5-22: STATES WITH HOLIDAY PAY, BACK PAY, AND VACATION PAY PROVISIONS**

State	Holiday	Back Pay	Vacation	State	Holiday	Back Pay	Vacation
ME	R	R <sup>1</sup>	R <sup>2</sup>	MD	R: Not applicable to pay attributable to any period outside the terms of an employment agreement, which specifies scheduled vacation or holiday periods		R: Not applicable to pay attributable to any period outside the terms of an employment agreement, which specifies scheduled vacation or holiday periods
MA	D			MI	R	R	R
MN	R: 55% deducted as long as amount is less than WBA	R	R: Only applies if temporary or seasonal layoff, not if permanent separation	MS		D: Employer withholds amount of benefits paid and remits to UI agency	
MO	Reportable during week of holiday	R: Employer withholds amount of benefits paid and remits to UI agency	R	NE			D
NV	Treated as wages the week in which it is paid	D: Employer withholds amount of benefits paid and remits to UI agency	D	NY	D	R	D
NM		R: By regulation		NC		D: Employer withholds amount of benefits paid and remits to UI agency	
ND	Reportable during week of holiday	Not reportable	Reportable when received unless individual takes vacation prior to layoff	OH			R
OR	May be deductible depending on circumstances		May be deductible depending on circumstances	PA	R	R	R: Only deductible if individual has a return to work date
PR			R	RI			R
SD	R			TN		R	
UT	R	R	R	VT		R	R
VA	Reportable during week of holiday	R	R	WA	R: If assigned to the week claimed rather than accrued	Employer withholds amount of benefits paid and remits to UI agency	R: If assigned to the week claimed rather than accrued

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Table 5-22: STATES WITH HOLIDAY PAY, BACK PAY, AND VACATION PAY PROVISIONS							
State	Holiday	Back Pay	Vacation	State	Holiday	Back Pay	Vacation
WV	D	D	D: Except if individual is totally unemployed and if pay is accumulated prior to unemployment	WI	R: Only when allocated by close of such week, payable at full wage rate, and individual has notice <sup>2</sup>		R: Only when allocated by close of such week, payable at full wage rate, and individual has notice <sup>3</sup>
WY	D: Allocated to week the holiday occurs	R	D				

R = weekly benefit reduced by weekly prorated amount of the payment    D = benefits denied for the week of receipt

<sup>1</sup> If a payment, which is awarded or authorized by the National Labor Relations Board, a court, or any other administrative agency of government for any settlement of a dispute, is for, or equivalent to, wages for a specific period of time, then that payment will be considered wages with respect to the week or weeks covered by the award, providing the individual receives the back payment.

<sup>2</sup> Individual is ineligible for benefits for any week in which the individual receives 32 hours or more of sick pay, holiday pay, or vacation pay totaling over \$500, by itself or in combination with wages.

<sup>3</sup> Individual is ineligible for benefits for any week in which the individual receives vacation pay in an amount exceeding the equivalent of four weeks' wages. However, if total amount of vacation pay is less than WBA, WBA will be reduced by the amount of vacation pay received.

**RETIREMENT PAYMENTS**—FUTA requires states to reduce the weekly benefit amount of any individual by the amount, allocated weekly, of any “governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual....” This requirement applies only to payments made under a plan maintained or contributed to by a base-period or chargeable employer that affected eligibility for or increased the amount of the retirement pay. States are permitted to reduce benefits on less than a dollar-for-dollar basis by taking into account the contributions made by the individual to the plan in question. (This effectively means the FUTA requirement is limited to 100 percent employer-financed pensions.) Also, the requirement applies only to those payments made on a periodic (as opposed to lump-sum) basis. As a result, states may choose from a variety of options in creating a retirement pay provision. FUTA also prohibits reductions for pensions, retirement or retired pay, annuity, or other similar payment not includible in the gross income of the individual because it was part of a rollover distribution.

Table 5-23: EFFECT OF RETIREMENT PAYMENTS							
State	Deducts All BP Employer Pensions (51 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work	State	Deducts All BP Employer Pensions (51 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work
AL	X	X	X	AK	X	X	X
AZ	X	X	X	AR	X	X	
CA	X	X	X	CO	X		
CT	X	X	X	DE	X	X	
DC	X	X		FL	X	X	X
GA	X	X	X	HI	X	X	X
ID	X <sup>1</sup>	X		IL	X <sup>2</sup>	X	
IN	X <sup>3</sup>			IA	X	X	X
KS	X	X	X	KY	X	X	X
LA	X			ME	X	X	X
MD	X <sup>4</sup>	X		MA	X	X	X

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Table 5-23: EFFECT OF RETIREMENT PAYMENTS							
State	Deducts All BP Employer Pensions (51 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work	State	Deducts All BP Employer Pensions (51 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work
MI	X	X	X	MN	X		
MS	X			MO	X		X
MT	X	X	X	NE	X	X <sup>5</sup>	
NV	X	X	X	NH	X	X	X
NJ	X	X	X	NM	X	X	
NY	X	X	X	NC	X		
ND	X	X	X	OH			
OK	X <sup>5,6</sup>		X	OR	X	X	
PA	X	X	X	PR	X	X	X
RI	X	X	X	SC	X	X	
SD	X	X		TN	X	X	X
TX	X	X		UT	X		X
VT		X		VA	X <sup>2</sup>		
VI	X			WA	X	X	X
WV	X		X	WI	X	X	X
WY	X	X					

<sup>1</sup> Only reportable if 100 percent funded by employer.  
<sup>2</sup> Deducted if base-period or chargeable employer.  
<sup>3</sup> No deduction if individual uses distribution from pension, retirement, or annuity plan to satisfy a severe financial hardship resulting from an unforeseeable emergency that is due to events beyond individual's control.  
<sup>4</sup> Excludes lump sums paid at time of layoff or shutdown of operations.  
<sup>5</sup> By regulation.  
<sup>6</sup> If individual is receiving monthly retirement payments that are required to be deducted from unemployment benefits, 7/30 of the monthly retirement payment will be deducted from each week of benefits.

**EFFECT OF SOCIAL SECURITY PAYMENTS**—Social Security payments are sometimes treated differently from retirement payments in general. In Minnesota, the amount of UI compensation is reduced by 50 percent if the claimant is collecting Social Security, unless the base period wages were earned while the claimant was already qualified to receive Social Security benefits. Separate from Social Security payments are Social Security Disability Insurance (SSDI) payments. In some states individuals that receive SSDI are held ineligible or have those payments treated as deductible income.

**SUPPLEMENTAL UNEMPLOYMENT PAYMENTS**—A supplemental unemployment payment plan is a system whereby, under a contract, unemployed individuals receive payments from an employer-financed trust fund. The purpose is to provide the individual, while unemployed, with a combined UI and supplemental unemployment benefit payment amounting to a specified proportion of his or her weekly earnings while employed.

There are two major types of such plans: 1) those of the Ford-General Motors type, under which the individual has no vested interest and is eligible for payments only if s/he is laid off by the company; and 2) those under which the individual has a vested interest and may collect if s/he is out of work for other reasons, such as illness or permanent separation.

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All states except New Mexico, Puerto Rico, South Carolina, and South Dakota permit supplementation by Ford-General Motors type plans without affecting UI payments.

In 48 states permitting supplementation, an interpretive ruling was made either by the attorney general (27 states) or by the employment security agency (ten states); in Maine, supplementation is permitted as a result of a Superior Court decision and, in the remaining ten states (AK, CA, CO, GA, HI, IN, MD, NH, OH, and VA), by amendment of the UI statutes.

Some supplemental unemployment benefit plans of the Ford-General Motors type provide for alternative payments or substitute private payments in a state in which a ruling not permitting supplementation is issued. These payments may be made in amounts equal to three or four times the regular weekly private benefit after two or three weekly payments of state UI benefits without supplementation; in lump sums when the layoff ends or the state benefits are exhausted (whichever is earlier); or through alternative payment arrangements to be worked out, depending on the particular supplemental unemployment benefit plan.

**RELATIONSHIP WITH OTHER STATUTORY PROVISIONS**—Some states have no provision for any type of disqualifying income except pensions and others have only two or three types. This does not necessarily allow benefits to all individuals in receipt of the types of payments concerned. When states do not pay benefits to such individuals, they rely upon the general able-and-available provisions or the definition of unemployment. Many individuals receiving workers' compensation, other than those receiving weekly allowances for dismemberment, are not able to work in terms of the UI law. However, receipt of workers' compensation for injuries in employment does not automatically disqualify an unemployed individual for unemployment benefits. Many states consider that evidence of injury with loss of employment is relevant only as it serves notice that a condition of ineligibility may exist and that an individual may not be able to work and may not be available for work. Similarly, individuals receiving Social Security Disability Insurance (SSDI) payments may not be automatically disqualified for benefits.