

# How Unemployment Insurance Is Failing Working Caregivers — And How to Fix It

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## Introduction

In the first year of the COVID-19 pandemic, 5.4 million women lost their jobs in the worst economic crisis since the Great Depression.<sup>1</sup> And as schools moved online and child care facilities shuttered, parents faced impossible choices between caregiving and breadwinning. Many families brought elderly or disabled loved ones out of nursing homes that incubated COVID-19 outbreaks, and at the same time, lost access to in-home caregiving supports. Those new caregiving needs were most likely to fall on women, who took on the majority of unpaid caregiving in their households during—and long before—the pandemic.<sup>2</sup> Between March of 2020 and February of 2021, more than 2.3 million women dropped out of the workforce entirely, meaning they were neither working nor looking for work.<sup>3</sup>

While rising unemployment hammered all workers, women—and especially women of color—were disproportionately likely to lose their jobs and the wages they needed to make ends meet.<sup>4</sup> By the summer of 2021, Black women and Latinas were nearly 50 percent more likely to be unemployed than white, non-Hispanic men.<sup>5</sup> As jobs return, men are returning to work faster than women—in significant part because women are continuing to take on massive, unpaid caregiving work in the face of an overburdened caregiving infrastructure.<sup>6</sup>

Many workers who lost their jobs struggled to access critical unemployment insurance (UI) benefits that would make it possible for them to make rent, keep the lights on, and afford transportation to job interviews. Unemployment insurance is a joint federal and state program that is administered by the states, which promises to provide temporary income replacement for workers who lose employment a job through no fault of their own. But the unemployment insurance system was failing to live up to that promise—especially for working caregivers—long before the COVID-19 pandemic. For well over a decade, state legislatures have dismantled the unemployment insurance system, shredding this critical safety net and leaving workers vulnerable in an economic crisis.

As this brief will explain, many states impose strict eligibility requirements that make it nearly impossible for many caregivers and low-paid workers to qualify for UI benefits if they lose their jobs, even as they have contributed via a payroll tax paid by their employer on their behalf. In 2019, approximately half of unemployed workers were denied unemployment insurance benefits, leaving them without this vital support when they lost their jobs.<sup>7</sup> Some states exclude workers at even higher rates; in the last quarter of 2019, Mississippi denied unemployment benefits to all but 9.5% of unemployed workers.<sup>8</sup> Women of color are especially likely to be left behind: Black women, Latinas, and Native American women disproportionately hold low-paid jobs, which often leave workers with earnings that are too low and unstable to qualify for UI—and nationwide, workers of color overall are more likely to be denied UI benefits, in part because states that have higher percentages of Black workers are more likely to harshly limit workers' access to unemployment insurance.<sup>9</sup>

In March 2020, as millions of workers were losing their jobs every week, Congress passed the CARES Act, a stimulus bill that included an unprecedented expansion to unemployment insurance.<sup>10</sup> The CARES stimulus package authorized a much-needed increase to workers' (previously unlivable) weekly UI benefit and created a new, federally-funded unemployment insurance program for workers, including many workers with caregiving responsibilities, who could not claim unemployment insurance under state law.<sup>11</sup> The CARES Act programs, and later bills reauthorizing them, were a critical safety net for workers who needed to care for sick loved ones or young children during the pandemic. But these programs are slated to end by September 6, 2021—and we risk losing what critical gains were hard-won during the height of the pandemic, and returning to a status quo in which states left unemployed caregivers with no way to make ends meet.

## I. The Unemployment Insurance System Is Failing Caregivers

### A. State “Good Cause Quit” Laws Are Leaving Working Caregivers Behind.

Workers who quit their jobs generally are not eligible for unemployment insurance—unless they quit for “good cause.”<sup>12</sup> State laws defining “good cause” to quit, and the court decisions interpreting them, are different from state to state. State courts often define good cause to quit using a “reasonable person” standard, asking whether a hypothetical reasonable person in the same circumstances would also quit.<sup>13</sup> For example, states typically recognize that workers have good cause to quit if they resign because of a large pay cut,<sup>14</sup> a medical condition caused or exacerbated by their work,<sup>15</sup> or workplace sexual harassment that the employer refuses to stop.<sup>16</sup> By contrast, job dissatisfaction, conflict with a supervisor, or going back to school is almost never considered a good cause that allows workers to maintain benefits.

State law applying the good cause rule to caregiving varies widely. Many states define “good cause” so restrictively that they deny benefits to workers who are forced to leave their jobs for compelling personal or family reasons, like providing child care or elder care, caring for a sick loved one, or juggling unpredictable hours. Common restrictions that deny caregivers unemployment insurance include:

- **Limiting Benefits to Workers Who Resign for Work-Related Reasons:** In many states, including Florida, Missouri, and Montana, workers are categorically excluded from UI benefits if they quit, except for good cause “attributable” or “connected to” to their employers.<sup>17</sup> In these states, workers who need to leave their jobs for compelling family-related reasons—for example, because they need to move home to care for a sick or aging parent—are excluded from unemployment benefits.
- **Failing to Provide Benefits to Caregivers:** In most states, workers who quit their jobs because of caregiving responsibilities can be categorically excluded from benefits.<sup>18</sup> Only about a quarter of states, such as Arkansas, Minnesota, and Wisconsin, have state UI laws that explicitly specify that workers who are forced to quit to care for an ill, injured, or disabled loved one have good cause to leave their jobs and remain eligible for benefits.<sup>19</sup> Michigan briefly allowed workers to claim UI benefits to care for family members—but only if their care responsibilities arise from COVID-19, and only for claims filed before April of 2021.<sup>20</sup> In the remaining states, workers who quit their jobs to provide care risk being disqualified for benefits by state UI agencies or courts.<sup>21</sup>
- **The Child Care Loophole:** Even when states do provide unemployment insurance to workers who are forced to leave their jobs to care for children or other loved ones themselves, very few states explicitly extend benefits to workers who are forced to quit because they cannot access child care while they are at work, except in very limited circumstances that are directly caused by the employer.<sup>22</sup> In most states, workers can qualify for unemployment insurance if their employers dramatically change their hours and workers cannot find child care—for example, if a worker was originally hired to work the day shift, but their employer changes their hours to a night shift, and “the worker quits because child care is unavailable during the night shift.”<sup>23</sup> But in most states, if workers lose child care for reasons not attributable to an employer, they are not explicitly covered by state unemployment insurance laws.<sup>24</sup>
- **Unpredictable Scheduling:** Many workers in low-paying service sector jobs—disproportionately held by women and people of color—have little or no input into their work hours. Employers may frequently change their hours from week to week or schedule them for “on-call” shifts during which they may be required to report to work with just hours of notice, making it nearly impossible for workers to arrange child care, maintain a second job, or go to school.<sup>25</sup> If an employer uses these “just-in-time” scheduling practices, or if a worker’s hours are simply too erratic to arrange child or elder care, they may be forced to quit their job to manage their caregiving responsibilities. But many states fail to recognize that volatile and unpredictable work schedules may constitute good cause for caregiving workers to leave their jobs. In fact, if volatile scheduling practices are considered “customary in the industry or the occupation,” or if the worker knew about them when hired, many states do not consider unfair work schedules as good cause to quit.<sup>26</sup>

- **Moving with a Partner:** Most states do not recognize that workers have good cause to leave their jobs when they move because a partner accepts a new job in a different city or state—even when both partners care for a child together.<sup>27</sup> Even among states that do extend UI benefits to workers who leave a job for a family move, most restrict good cause eligibility to workers who leave for a spouse and deny benefits to workers who move for unmarried partners.<sup>28</sup>

Even when workers with caregiving responsibilities have rights on paper, they may struggle to access them in practice. In some states that have addressed some or all of these barriers to caregiver eligibility for benefits, advocates and legal services attorneys report that state agencies nevertheless improperly deny unemployment insurance benefits to workers who leave work for caregiving responsibilities.<sup>29</sup> And even when workers are able to appeal illegal denials of UI benefits, appeals may take weeks or months—during which workers may fall behind on rent, struggle to put food on the table, or be forced to take on predatory debt to make ends meet.

### **B. Part-Time Workers Are Systematically Excluded from Unemployment Insurance.**

In most states, people who are only able to accept part-time work are not considered “available for work”—which means they’re not eligible for UI benefits—unless they only worked part-time before losing their jobs.<sup>30</sup> In these states, workers who need to move from full-time work to part-time work to care for a child or disabled family member may not be eligible for unemployment insurance, leaving them without this critical source of income.

Moreover, some states have set monetary eligibility thresholds that low-paid part-time workers cannot meet. To initially qualify for UI benefits, a worker who loses their job must show that they earned a threshold minimum amount of wages in the “base period” before they lost their job.<sup>31</sup> Minimum earnings requirements vary widely from state to state, and “[a]s a practical matter, some part-time workers are effectively disqualified from UI in states with higher minimums, such as Arizona, Kansas, Michigan, and New York.”<sup>32</sup> For example, in Arizona, a minimum wage worker would have to average more than 30 hours a week to be eligible.<sup>33</sup> In these states, caregivers who can only work part-time while caring for loved ones, as well as many involuntary part-time workers, may get nothing from UI if they are laid off from their part-time jobs.

### **C. Even When Caregivers Can Get Unemployment Insurance, the “Suitable Work” Requirement May Cut Them Off.**

Workers are generally only eligible for unemployment insurance if they can show that they are available to return to work—and workers who refuse an offer of “suitable work” may lose UI.<sup>34</sup> Some state UI

agencies warn employers that they “must” report any unemployed workers who decline a job offer to the state.<sup>35</sup> If that state agency decides that the worker under scrutiny turned down “suitable work,” they may cut off that worker’s benefits. State regulations defining availability and “suitable work” requirements vary, but common factors used to determine whether a worker refused a suitable job include health and safety, whether the job matches the worker’s prior experience, and whether the job approximates the worker’s prior wages.<sup>36</sup>

In many states, the suitable work requirement may cut workers off from benefits before they can find jobs that are compatible with their caregiving needs. Many workers have caregiving obligations that they need to balance with full-time or part-time work—but they might only be able to accept jobs with consistent hours that let them work the night shift, for example, or that include flexibility to work from home. These workers may be available and searching for a job, but could lose benefits before they can find one that allows them to care for their loved ones.

### **D. Returning Caregivers Cannot Access Unemployment Insurance.**

Because people without a recent work history are categorically excluded from unemployment insurance, people who leave the workforce temporarily to provide care cannot access UI when they try to return to formal employment.<sup>37</sup> That means that a mother who leaves her job to care for young children could not access benefits when her kids are old enough for kindergarten and she begins searching for new work. Neither could a worker who is attempting to return to work after spending recent years caring fulltime for a disabled relative or an ailing parent. In addition, UI’s recent work history requirement also excludes many graduating students, people leaving incarceration, and people who are intermittently employed due to their disabilities.<sup>38</sup>

## **II. Strengthening Unemployment Insurance for Caregivers**

### **A. Caregiving as Good Cause to Quit**

In too many states, rigid unemployment insurance laws risk leaving caregivers with no way to make ends meet when they have to leave a job to care for a family member or loved one. But some states are leading the way by building a safety net that works for working families. Model state UI laws that meet caregivers’ needs include:

- **Broad “Good Cause” Language:** State law should recognize that workers may be forced to leave their jobs for many compelling work-related, family, or personal reasons—from needing a schedule that allows them to pick up young

children from school, to wanting to avoid unsafe workplaces, to their car breaking down and preventing them from getting to work. Some states provide benefits to workers who leave work for “good cause,” whether or not that cause is “work-related.” For example, Alaska, Arizona, and California allow workers to claim benefits as long as they can show “good cause,”<sup>39</sup> and Arkansas allows workers to claim benefits if they are forced to quit for good cause related to work or for a “personal emergency of such nature and compelling urgency that it would be contrary to good conscience to impose a disqualification,”<sup>40</sup> like caring for a sick child.<sup>41</sup> Pennsylvania allows workers to receive benefits if they leave their job for a “cause of a necessitous and compelling nature,”<sup>42</sup> which state courts have recognized includes caring for sick family members.<sup>43</sup> This broad good cause language gives state UI departments the flexibility to provide a safety net for workers who are forced to quit their jobs for good reasons, including those the legislature couldn’t anticipate.

- **Clear Protections for Caregiving for Ill or Disabled**

**Loved Ones:** In more than a dozen states, including New Hampshire, Wisconsin, and Arkansas, UI statutes clearly specify that workers who are forced to leave their jobs because of the illness, injury, or disability of a loved one can claim unemployment insurance benefits.<sup>44</sup> State laws and regulations should adopt inclusive definitions of “family” to account for workers who may need to leave work to provide care for, among others, unmarried partners, blended families with step-relatives, multigenerational households, or chosen family members.<sup>45</sup>

- **Closing the Child Care Loophole:** A handful of states, including California, Minnesota, and Wisconsin, specifically recognize that workers who are forced to leave their jobs because of child care conflicts have good cause to quit and remain eligible for benefits. For example, Minnesota law provides that a worker’s “loss of childcare” is good cause to quit if no reasonable accommodation is available,<sup>46</sup> and California recognizes that a worker has good cause to quit if their “minor child requires care and supervision and there is no reasonable alternative.”<sup>47</sup>

- **Affirming That Unfair Scheduling May Be Good Cause to Quit:** Although no state has yet done so in statute, state legislatures should specify that erratic, just-in-time scheduling, or major changes in workers’ hours, can be good cause to quit.<sup>48</sup> Alternatively, state courts could recognize that—or state unemployment insurance agencies could issue regulations clarifying that—changing or unpredictable schedules could give workers good cause to quit, even under narrow state laws that only recognize work-related good cause to quit. For example, Delaware courts have recognized

that when an employer changed a worker’s hours and caused a conflict with caregiving obligations, she had work-related good cause and remained eligible for benefits.<sup>49</sup>

- **Recognizing That Workers May Have Multiple Reasons to Quit:** In some states, workers who quit their job for multiple reasons—like a restaurant worker who quits her job to care for a parent-in-law who falls ill, and because her pay is so low it makes more sense for her to quit than her spouse—will be eligible for unemployment benefits as long as one of their reasons constitutes good cause and that reason was a “substantial motivating factor” in their decision to quit.<sup>50</sup> Workers have a wide range of reasons to be unhappy with their jobs, from low pay to demeaning managers to unfulfilling work, none of which generally constitute good cause to leave a job. If these workers are ultimately pushed to quit for caregiving responsibilities or other good cause, they should have access to benefits even if they are influenced by other reasons they dislike their jobs.

## **B. Equitable Benefits for Part-Time Workers**

Some states, including California and New Hampshire, allow workers who are only available for part-time jobs to remain eligible for unemployment insurance, even if they worked full-time prior to becoming unemployed. Other states should amend state law to allow unemployed workers who are only seeking part-time work—including workers who are only available for part-time work because of their caregiving and child care obligations—to remain eligible for benefits. States should also replace the prior earnings requirements with an “hours worked” requirement in which anyone who worked at least 300 hours for any employer across any of the six quarters prior to losing their jobs would be eligible for unemployment insurance.<sup>51</sup> Doing so would expand access to UI to part-time and low-paid workers who do not make enough money to meet current eligibility requirements.<sup>52</sup>

## **C. Amending the Suitable Work Requirement to Safeguard Caregivers’ Eligibility for Benefits**

Some states, like New Hampshire and Wyoming, allow workers to claim unemployment insurance benefits if they declined an offer of suitable work for “good cause.”<sup>53</sup> Other states, like Maine, carve out a specific exception to the suitable work requirement for workers who need to “care for an immediate family member.”<sup>54</sup> States should adopt laws that allow caregivers and other workers who have compelling reasons they cannot immediately be available to work to remain eligible for UI. State agencies can and should also issue regulations to clarify that if a worker is available for full-time or part-time work as long as it does not conflict with their caregiving obligations—but needs to turn down a particular job because the

job creates a caregiving conflict—they have turned down unsuitable work and thus remain eligible for benefits. For example, state UI agencies could issue regulations clarifying that an unemployed worker who needs to provide care to a disabled family member over the weekends and has to turn down a job offer after learning it would require frequent weekend shifts has not turned down suitable work.

Some states, including New Hampshire, have adopted UI statutes that explicitly provide that workers should not be disqualified from receiving benefits if they are unable to “accept full-time or part-time work during the hours of a particular shift because he or she is the only adult available to take care” of a young child.<sup>55</sup> Other states should do the same and amend availability-for-work requirements to explicitly protect working parents’ access to UI when they must turn down work that conflicts with their child care needs. Alternatively, where states have adopted a “good cause” exception to the requirement to accept suitable work, state agencies and courts should affirm that child care obligations are good cause to decline an offer of otherwise suitable work.

#### **D. A Jobseekers’ Allowance for Returning Caregivers**

Congress should create a permanent Jobseekers’ Allowance (JSA) to provide a weekly cash benefit to workers who have not worked enough hours in the recent past to qualify for unemployment insurance—but are now seeking to return to formal employment.<sup>56</sup> All adults who are seeking a job and don’t qualify for UI should be eligible for up to 13 weeks of cash benefits, as well as provide wraparound job-search assistance like help with transportation to interviews, child care, and job search training.<sup>57</sup> Workers who are trying to return to work after caring full-time for a loved one would be eligible for benefits, as well as graduating full-time students seeking a job, workers leaving incarceration, and anyone entering the labor market for the first time.<sup>58</sup>

#### **E. Building a Safety Net for All: A Federal Program or Universal Minimum Standards**

Unemployment insurance is supposed to be a promise: that when a worker loses their job through no fault of their own—because their workplace closes, because of an unexpected personal crisis, or because of a global pandemic—the government will provide them the temporary help they need to stay afloat. But in many states, UI falls far short of that promise—in no small part because state legislators have taken a hatchet to the system.<sup>59</sup>

States have slashed benefits and imposed harsh limits on workers’ eligibility, all in a race to the bottom to lower the taxes that employers pay into state UI coffers on behalf of their employees. Attacks on unemployment insurance are frequently racialized, and

accordingly, the Center for Popular Democracy has found, Black workers are disproportionately likely to live in the states with the lowest UI benefits—while the states with the most generous UI programs are, on average, only 7% Black.<sup>60</sup>

It’s time to end the race to the bottom by establishing federal minimum standards for UI eligibility and benefits.<sup>61</sup> Federal minimum standards should include robust, universal protections for caregiving workers, as well as higher minimum benefits to make sure workers can make ends meet and support their families while seeking new employment that is compatible with their caregiving needs. States should have the flexibility to expand UI beyond the federal floor.

## **Conclusion**

As COVID-19 led to nationwide mass layoffs, Congress recognized that state UI programs would leave workers with caregiving responsibilities behind. The Pandemic Unemployment Assistance (PUA) program created by the CARES Act temporarily covers workers excluded from state UI programs—including workers seeking part-time work, and people who were unavailable for work because they were caring for a child who couldn’t attend school or because they were providing care to someone diagnosed with COVID-19.<sup>62</sup> By the fall of 2020, more than half of unemployed workers were receiving PUA—meaning they would have been completely ineligible for any benefits at all if the federal government had not stepped in, many due to caregiving obligations.<sup>63</sup> During the pandemic, a federal floor made it possible for millions of workers to make ends meet during the pandemic, and exposed how many caregivers would struggle without it.

But working caregivers who have lost jobs needed UI long before the COVID-19 pandemic, and they will need it long after the pandemic ends. However, PUA is set to expire in September 2021, leaving caregivers in many states without benefits once again. Being unemployed can be difficult for all workers. But if working caregivers can’t access unemployment insurance, unemployment could mean a catastrophic setback: families will struggle to make the rent, pay their water bills, and buy their kids school supplies. Both state legislatures and Congress have the power to build a safety net for all by ensuring the UI system works for working caregivers at any time—not just during the COVID-19 crisis.

## How Unemployment Insurance is Failing Workers in Crisis

This policy brief focuses on barriers to unemployment insurance that are especially likely to harm workers with caregiving responsibilities. Caregivers, like all workers, are also harmed by the many other ways that the unemployment insurance system fails to live up to its promise of a social safety net for workers who lose their jobs through no fault of their own.

Problems	Solutions
<p><b>Benefits Workers Can't Live On:</b> On average, UI benefits only replace about 40% of a workers' prior wages—leaving working families with the impossible task of making ends meet after losing 60% of their income. Minimum and maximum benefits vary widely, and can be as little as \$15 a week.</p> <p>While these inadequate benefits hurt all workers, workers with dependents to care for have to stretch the paltry benefits even further.</p>	<p><b>Federal Minimum Benefits:</b> Congress should raise replacement rates for unemployment benefits on a progressive scale, ensuring that low-paid workers receive at least 85% of their pre-layoff wages. Congress should also establish minimum and maximum benefit levels that ensure workers receive enough to make ends meet.</p> <p>To help ensure workers supporting dependents have enough to get by, the federal minimum benefit should also include a dependent allowance of at least \$35/week.</p>
<p><b>Many Workers Excluded from UI:</b> Under federal law, undocumented workers are almost always ineligible for UI benefits. Workers who are self-employed or misclassified by their employers as independent contractors are also typically ineligible for state UI programs.</p> <p>In addition, many workers in seasonal or low-paid jobs do not have stable hours or sufficient income—leaving them less likely to qualify for UI. Low-paid workers are disproportionately likely to be women and mothers.</p>	<p><b>Protect Excluded Workers:</b> Congress should extend UI coverage to undocumented workers while working to create a path to citizenship. Congress should also combat employee misclassification and require large companies pay UI taxes for independent contractors so that misclassified workers and true independent contractors have access to UI.</p> <p>Congress should establish a uniform hours worked requirement allowing workers to qualify for UI if they have worked at least 300 hours in any of the six quarters prior to losing their job. Failing that, states should adopt an alternative base period allowing workers to qualify for UI based on the four quarters immediately prior to filing a claim, rather than excluding claimants' most recent work history.</p>

**\* These data and proposals are drawn from Josh Bivens et al., Econ. Policy Inst. et al., *Reforming Unemployment Insurance: Stabilizing a System in Crisis & Laying the Foundation for Equity (2021)*, a joint report issued by NWLC and partners.**

- 1 Diana Boesch & Shilpa Phadke, *When Women Lost All the Jobs: Essential Actions for a Gender-Equitable Recovery*, CTR. AM. PROGRESS (Feb. 1, 2021), <https://www.americanprogress.org/issues/women/reports/2021/02/01/495209/women-lose-jobs-essential-actions-gender-equitable-recovery/>.
- 2 See, e.g., Usha Ranji et al., *Women Work and Family During COVID-19: Findings from the KFF Women's Health Survey*, KAISER FAM. FOUND. (Mar. 22, 2021), <https://www.kff.org/womens-health-policy/issue-brief/women-work-and-family-during-covid-19-findings-from-the-kff-womens-health-survey/> (explaining that mothers were more often forced to take time off work during the pandemic because of school and child care closures); *Fact Sheet: Paid Family and Medical Leave Will Support an Equitable Economic Recovery*, NAT'L WOMEN'S L. CTR. (May 2021), <https://nwlc.org/wp-content/uploads/2021/05/PaidLeaveFS.pdf> ("While research shows men increasingly want to take an equal share of caregiving, women are still more likely than men to serve as primary caregivers, and are therefore more likely to need paid time off to ensure that their children or other family members receive the medical care and attention that they need.");
- 3 NAT'L WOMEN'S LAW CTR., A YEAR OF STRENGTH & LOSS: THE PANDEMIC, THE ECONOMY, & THE VALUE OF WOMEN'S WORK (Mar. 2021), [https://nwlc.org/wp-content/uploads/2021/03/Final\\_NWLC\\_Press\\_CovidStats.pdf](https://nwlc.org/wp-content/uploads/2021/03/Final_NWLC_Press_CovidStats.pdf).
- 4 *Id.* In fact, in December 2020, during the peak of COVID-19's winter surge, 100% of the net jobs lost were previously held by women: nationwide, women lost 156,000 jobs while men gained 16,000. Claire Ewing-Nelson, *All of the Jobs Lost in December Were Women's Jobs*, NAT'L WOMEN'S L. CTR. (Jan. 2021), <https://nwlc.org/wp-content/uploads/2021/01/December-Jobs-Day.pdf>.
- 5 According to the Bureau of Labor Statistics (BLS) data released in July 2021, white men had a 5.2% unemployment rate, while Latina women had a 7.8% unemployment rate and Black women had an 8.5% unemployment rate. See *Labor Force Statistics from the Current Population Survey: E-16. Unemployment Rates by Age, Sex, Race, and Hispanic or Latino Ethnicity*, BUREAU LAB. STAT. (July 2, 2021), [https://www.bls.gov/web/empst/cpsee\\_e16.htm](https://www.bls.gov/web/empst/cpsee_e16.htm).
- 6 See BOARD GOVERNORS FED. RESERVE SYS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2020 (2021), <https://www.federalreserve.gov/publications/files/2020-report-economic-well-being-us-households-202105.pdf>; Misty L. Heggeness & Jason M. Fields, *Working Moms Bear Brunt of Home Schooling While Working During COVID-19*, CENSUS BUREAU (Aug. 18, 2020), <https://www.census.gov/library/stories/2020/08/parents-juggle-work-and-child-care-during-pandemic.html>; Julie Kashen, Sarah Jane Glynn, & Amanda Novello, *How COVID-19 Sent Women's Workforce Progress Backward*, CTR. AM. PROGRESS (Oct. 30, 2020), <https://www.americanprogress.org/issues/women/reports/2020/10/30/492582/covid-19-sent-womens-workforce-progress-backward/>.
- 7 See Alicia Adamczyk, *The U.S. Unemployment System Was Already Broken. Then the Coronavirus Pandemic Hit*, CNBC (Oct. 8, 2020), <https://www.cnn.com/2020/10/08/coronavirus-spotlight-broken-us-unemployment-system.html>.
- 8 See Emma Janger, Nicole Rubin, & Sejal Singh, *Making Unemployment Insurance Work for Working People*, 68 UCLA L. REV. DISC. (LAW MEETS WORLD) 102 (2020), <https://www.uclalawreview.org/making-unemployment-insurance-work-for-working-people/>.
- 9 See, e.g., JASMINE TUCKER & JULIE VOGTMAN, WHEN HARD WORK IS NOT ENOUGH: WOMEN IN LOW-PAID JOBS, NAT'L WOMEN'S L. CTR. 3-4 (Apr. 2, 2020), [https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/04/Women-in-Low-Paid-Jobs-report\\_pp04-FINAL-4.2.pdf](https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/04/Women-in-Low-Paid-Jobs-report_pp04-FINAL-4.2.pdf); Josslyn Howard, *Report State People With Poor Health, People of Color Denied Unemployment Benefits More Often*, NBC News (Apr. 7, 2021), <https://www.firstcoastnews.com/article/news/local/report-states-people-with-poor-health-people-of-color-denied-unemployment-benefits-more-often-in-florida/77-8c59165e-5f4b-4945-9f4d-af94ca8ff7c6>; Ava Kofman & Hannah Resques, *Black Workers Are More Likely to Be Unemployed but Less Likely to Get Unemployment Benefits*, PROPUBLICA (Aug. 24, 2020), <https://www.propublica.org/article/black-workers-are-more-likely-to-be-unemployed-but-less-likely-to-get-unemployment-benefits>.
- 10 *Unemployment Insurance Provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act*, NAT'L EMP. L. PROJECT (Mar. 27, 2020), <https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/>.
- 11 *Id.*
- 12 See Janger, Rubin, & Singh, *supra* note 8; see also, e.g., FLA. STAT. § 443.101 (disqualifying workers from unemployment benefits if they quit their jobs, unless they quit for "good cause attributable" to their employer); NEV. REV. STAT. § 612.380 (disqualifying workers from unemployment insurance if they "voluntarily left" their jobs "[w]ithout good cause").
- 13 *Truitt v. Unemployment Comp. Bd. of Review*, 527 Pa. 138 142 (Pa. 1991); see also *Brownlee v. Commonwealth*, 287 S.W.3d 661, 665 (Ky. 2009); *Zorrero v. Unemployment Ins. Appeals Bd.* 47 Cal. App. 3d 434, 439 (Cal. Ct. App. 1975).
- 14 N.C. GEN. STAT. § 96-14.5.
- 15 See, e.g., *Kramer v. New Mexico Emp't Sec. Div.*, 114 N.M. 714 (N.M. 1992) (holding that worker was eligible for UI after she resigned because her job was making a pre-existing back condition worse); *Spruell v. Adm'r of Div. of Emp't Sec.*, 158 So. 2d 364 (2d Cir. 1963) (holding that worker quit for good cause when her job gave her a respiratory condition).
- 16 See, e.g., *WIS. STAT. § 108.04*; *Comitalo v. Unemployment Comp. Bd. of Review*, 737 A.2d 342 (Pa. Commw. Ct. 1999) (holding that worker who quit after her employer didn't take necessary steps to enforce sexual harassment policy against a manager who was harassing her had good cause to quit); *Marlow v. N.C. Emp't Sec. Comm'n.* 127 N.C. App. 734 (N.C. Ct. App. 1997) (holding that workplace sexual harassment was good cause to quit attributable to an employer).
- 17 ALA. CODE § 25-4-78; FLA. STAT. § 443.101; MO. REV. STAT. § 288.050; MONT. CODE ANN. § 39-51-2302; see also W. VA. CODE § 21A-6-3 (explaining that a worker who leaves their job must show they left for "good cause involving fault on the part of the employer" to qualify for benefits).
- 18 See, e.g., ALA. CODE § 25-4-78 (which does not provide that caregiving needs provide good cause to quit in Alabama); MO. CODE ANN. § 288.050 (same, in Missouri); W. VA. CODE § 21A-6-3 (same, in West Virginia).
- 19 ARK. CODE ANN. § 23.20.379; MINN. STAT. § 268.095; WIS. STAT. § 108.04; see also 19 CAL. UNEMP. INS. CODE § 1256; COLO. REV. STAT. § 8-73-108; CONN. GEN. STAT. § 31-236; DEL. CODE ANN. § 3314; 820 ILL. COMP. STAT. § 405/601; N.Y. LAB. LAW § 593; WASH. REV. CODE § 50.20.050; ARIZ. ADMIN. CODE R6-3-50210.
- 20 MICH. COMP. LAWS § 421.29.
- 21 While explicit statutory protections provide workers with caregiving needs the clearest rights, state courts can and should still recognize that caregiving responsibilities may constitute good cause to leave a job. But see *Davis v. Unemployment Comp. Bd. of Review*, 69 Pa. Commw. 585 (Pa. Commw. Ct. 1982).
- 22 See MINN. STAT. § 269.095 (providing that workers have good cause to resign if "the applicant's loss of child care for the applicant's minor child caused the applicant to quit the employment, provided the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation is available"); CAL. CODE REGS., tit. 22, § 1256-10 (explaining that workers have good cause to quit if their "minor child requires care and supervision and there is no reasonable alternative" and that both the cost of child care and a worker's hours are factors in whether a worker had a reasonable alternative).
- 23 U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-01-181, UNEMPLOYMENT INSURANCE: ROLE AS SAFETY NET FOR LOW-WAGE WORKERS IS LIMITED 51 (2000), <https://www.gao.gov/assets/gao-01-181.pdf>.
- 24 *Id.* at 50.
- 25 NAT'L WOMEN'S LAW CTR., COLLATERAL DAMAGE: SCHEDULING CHALLENGES FOR WORKERS IN LOW-PAID JOBS AND THEIR CONSEQUENCES (2020), <https://nwlc.org/wp-content/uploads/2017/04/Collateral-Damage-2020-12.18.20.pdf>.
- 26 Rick McHugh & Claire McKenna, *Out of Sync: How Unemployment Insurance Rules Fail Workers With Volatile Job Schedules*, NAT'L EMP. L. PROJECT (Aug. 4, 2015), <https://www.nelp.org/publication/out-of-sync-how-unemployment-insurance-rules-fail-workers-with-volatile-job-schedules/>.
- 27 Joanna Venator, *Moving With Two Careers is Hard, but Unemployment Insurance for Trailing Spouses Can Help*, WASH. CTR. EQUITABLE GROWTH (Mar. 16, 2021), <https://equitablegrowth.org/moving-with-two-careers-is-hard-but-unemployment-insurance-for-trailing-spouses-can-help/>.
- 28 See, e.g., MINN. STAT. § 268.095; N.H. REV. STAT. ANN. § 282-A:32; ARIZ. ADMIN. CODE § R6-3-50155.
- 29 LIZ BEN ISHAI, RICK MCHUGH, & KATHLEEN UJVARI, AM. ASSOC. RETIRED PERSONS, ACCESS TO UNEMPLOYMENT INSURANCE BENEFITS FOR FAMILY CAREGIVERS: AN ANALYSIS OF STATE RULES AND PRACTICES (Apr. 2015), <https://www.aarp.org/content/dam/aarp/ppi/2015/unemployment-insurance.pdf>.
- 30 JOSH BIVENS ET AL., ECON. POLY INST. ET AL., REFORMING UNEMPLOYMENT INSURANCE: STABILIZING A SYSTEM IN CRISIS & LAYING THE FOUNDATION FOR EQUITY 16 (2021), <https://files.epi.org/uploads/Reforming-Unemployment-Insurance.pdf>.
- 31 *Id.* at 15.
- 32 *Id.* at 16.
- 33 *Id.* at 5.
- 34 Emp't & Training Admin., Dep't of Labor, *Unemployment Insurance Fact Sheet*, [https://oui.doleta.gov/unemploy/docs/factsheet/UI\\_Program\\_FactSheet.pdf](https://oui.doleta.gov/unemploy/docs/factsheet/UI_Program_FactSheet.pdf).
- 35 Janger, Rubin, & Singh, *supra* note 8.
- 36 See, e.g., L.A. STAT. ANN. § 23:1601; NEB. REV. STAT. § 46-628; N.H. REV. STAT. ANN. § 282-A:32.
- 37 GEORGETOWN CTR. ON POVERTY & INEQUALITY ET AL., A JOBSEEKER'S ALLOWANCE WOULD RESPOND TO COVID-19 & BEYOND 1 (2020), <https://www.georgetownpoverty.org/wp-content/uploads/2020/05/JSA-COVID-brief-20200519.pdf>.
- 38 *Id.*

- 39 ALA. CODE § 25-4-78; ARK. CODE ANN. § 23.20.379; CAL. UNEMP. INS. CODE § 1256.
- 40 ARK. CODE ANN. § 11-10-513.
- 41 See *Your Guide to Unemployment Benefits*, ARK. LEGAL SERVS. P'SHIP (June 2020), <https://www.arlegalservices.org/files/FSUnemploymentGuide.pdf>.
- 42 43 PA. CONST. STAT. § 802.
- 43 See *Edwards v. Unemployment Comp. Bd. of Review*, 184 Pa. Super. 262 (Pa. Super. Ct. 1957); *Rolland v. Unemployment Comp. Bd. of Review*, 98 Pa. Commw. 163 (Pa. Commw. Ct. 1986).
- 44 ARK. CODE ANN. § 11-10-514; A.A.C. R6-3-50210; CAL. UNEMP. INS. CODE § 1256; COLO. REV. STAT. ANN. § 8-73-108; CONN. GEN. STAT. § 31-236; 820 ILL. COMP. STAT. § 405/601; ME. STAT. tit. 26 § 1993; MINN. STAT. § 268.095; N.H. REV. STAT. ANN. § 282-A:32; N.Y. LAB. LAW § 593; 28 R.I. GEN. LAWS § 28-44-17; WASH. REV. CODE § 50.20.050; WIS. STAT. § 108.04.
- 45 Katherine Gallagher Robbins et al., *People Need Paid Leave Policies That Cover Chosen Family*, CTR. AM. PROGRESS (Oct. 30, 2017), <https://www.americanprogress.org/issues/poverty/reports/2017/10/30/441392/people-need-paid-leave-policies-that-cover-chosen-family/>.
- 46 MINN. STAT. § 268.095.
- 47 CAL. CODE REGS. tit. 22, § 1256-10. California further notes that “[t]he cost of providing child care services is a factor to consider if a claimant must expend an exceptional amount of money with no increase in wages to compensate for the considerable extra expenses” and that when a worker’s “schedule is changed so as to require child care at odd hours and additional expense, as well as other accommodations at a substantial cost, such as additional commuting costs, the claimant has voluntarily left work for good cause.”
- 48 California’s Labor & Workforce Development Agency has issued regulations clarifying that, in egregious circumstances, a worker may have good cause to quit if they object to working split shifts that require long periods away from work; “a work schedule that lacks uniformity as to beginning and ending times,” or to the hours of work when their schedules arise to a “real substantial, and compelling reason for leaving work.” CAL. CODE OF REGS. tit. 22, §1256-20. Workers do not have good cause to quit based on “mere preference, inconvenience, or slight hardship” related to their schedules. *Id.* In the absence of state action, state agencies should consider issuing similar regulations.
- 49 *White v. Security Link*, 658 A.2d 619 (Del. Super. 1994).
- 50 *Rabago v. Unemployment Ins. Appeals Bd.*, 148 Cal. Rptr. 499 (Cal. Ct. App. 1978).
- 51 BIVENS ET AL., *supra* note 30, at 52–53. The National Women’s Law Center and partners recommend that workers should be eligible for UI if they work at least 300 hours in any of the six quarters before separation.
- 52 *Id.*
- 53 N.H. REV. STAT. ANN. § 282-A:32; WYO. STAT. ANN. § 27-3-311.
- 54 ME. STAT. tit. 26, § 1192.
- 55 N.H. REV. STAT. ANN. § 282-A:32.
- 56 For more information on proposals for a Jobseeker’s Allowance, see GEORGETOWN CTR. ON POVERTY & INEQUALITY ET AL., *supra* note 37.
- 57 *Id.* at 2.
- 58 *Id.*
- 59 See e.g., Eric Levitz, *Florida GOP Realizing Deliberately Impoverishing the Unemployed Has Downsides*, N.Y. MAG. (Apr. 3, 2020), <https://nymag.com/intelligencer/2020/04/florida-unemployment-benefits-desantis-trump-rick-scott.html> (describing Florida Republicans campaign to systematically dismantle the state’s UI system, slash benefits, and impose onerous requirements on workers who needed the safety net after losing a job).
- 60 Janger, Rubin, & Singh, *supra* note 8.
- 61 See BIVENS ET AL., *supra* note 30, at 17.
- 62 PUA was also available to other workers excluded from state UI, including workers misclassified as independent contractors, genuine independent contractors, and workers with an insufficient work history to qualify. For more information, see *Unemployment Insurance Provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act*, NAT’L EMP. L. PROJECT (2020), <https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/>.
- 63 Jennifer Liu, *Nearly Half of People Collecting Unemployment Benefits May Not Qualify for Aid in 2021*, CNBC (Sept. 3, 2020), <https://www.cnbc.com/2020/09/03/nearly-half-of-workers-on-unemployment-could-lose-benefits-end-of-year.html>.