



LPRO: Legislative Policy and Research Office

UNEMPLOYMENT INSURANCE

BACKGROUND BRIEF

Congress enacted the unemployment insurance (UI) program as part of the Social Security Act (SSA) in 1935, in response to the Great Depression. The program is a federal-state partnership with oversight from the U.S. Department of Labor. The SSA provides grants to states with UI laws that meet federal requirements for administrating the UI program and overseeing the payment of benefits. UI benefits replace part of the income lost when workers become unemployed through no fault of their own. It provides a means for unemployed workers to maintain some level of consumer demand in hard times, and it is UI that has been credited as one reason the nation has avoided deep depressions since the 1930s.

BENEFIT ELIGIBILITY

UI eligibility and benefits for a worker are set by state law. The minimum weekly benefit is currently \$138 and the maximum weekly benefit is \$590. Eligibility and the weekly benefit amount are based on the recipient's work record for a prior 12-month period known as the Base Year. In order to qualify, an individual's total base period wages must be at least 150 percent of wages earned during

the highest quarter in the base period and include at least \$1,000 of wages earned in subject employment or the individual must have worked 500 hours in subject employment. A claimant's benefit year lasts for 52 weeks starting with the first week of filing, and the claimant is eligible to receive up to 26 weeks of benefits during that time period. Additional weeks of benefits are available if state or federal extensions apply. These extensions are usually because of very high unemployment rates and must be authorized through legislation from Congress or the Oregon Legislative Assembly. Oregon statute (ORS 657.321 to 657.329) provides up to 20 additional weeks of benefits during periods of high unemployment. Oregon law

also provides for up to 26 additional weeks of benefits if someone is unemployed due to a labor lockout.

The Oregon Employment Department's (OED) website provides an [estimator](#) of how much a claimant can receive on a new UI claim.

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UNEMPLOYMENT CLAIMS PROCESS

To obtain benefits, an unemployed worker must file a claim with OED through the statewide UI contact center or online. Claimants must show that they are unemployed through no fault of their own and are able to work, available for work and actively seeking work. Claimants must also provide accurate information on past employment for all employers within the previous two years.

Benefits start one week after the first week of the claim in which the worker meets all eligibility requirements, called the “waiting week,” and are thereafter claimed one calendar week at a time. Unless exempted¹, claimants are required to register with a WorkSource Oregon office where OED and partner staff help claimants find new jobs. Claimants are matched with potential employers by looking at the job listings as well as the claimant’s work history and other information. Job listings are updated every two hours and are available through both [iMatchSkills](#) and OED’s [website](#). Claimants may file a claim each week that they are able, available, seeking and willing to accept suitable work.

Benefits may not be received if a claimant voluntarily left work without good cause, was discharged or suspended from work for misconduct connected with work, failed to accept suitable work when offered or failed to apply for suitable work when referred to a job by OED. In these situations, people cannot receive benefits until they requalify, typically

by earning at least four times their weekly benefit amount.

Benefits may be denied on a week-to-week basis if a claimant is not able, available or seeking work, or fails to register and use iMatchSkills or does not claim benefits. Claimants must also inform OED if they were away from their permanent residence for more than three days in the prior week; benefits can be received if they were looking for work and were willing, ready and able to take a job in the other area. If the reason for leaving the claimant’s labor market was for other reasons, such as a vacation, they may not be eligible for benefits for that week.

There are a number of situations that can affect week-to-week eligibility, and/or the benefit amount. For example, claimants who receive retirement pay may have their weekly benefits reduced. Eligibility for claimants who attend school depends on the amount of time that they are looking for and accepting work and their willingness to and ability to accept work while in school. Claimants who are working part-time can receive reduced benefits as long as they are following the eligibility criteria and are earning less than their established weekly benefit amount.

Self-employed individuals may be eligible for benefits if they were self-employed and also worked as an employee of one or more other employers or were employed by their own incorporated business. Claimants can be self-employed and receive benefits depending on a number of factors, such as the type and size of their business, the amount of time spent on the business and whether they are willing and

¹ Claimants who are scheduled to return to work within four weeks, or who are limited to seeking work through their union hiring hall.



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able to drop self-employment for full-time work.

In all circumstances, when a claimant is working full-time or earning more than the weekly benefit amount, they are no longer eligible for benefits. When OED reduces or denies benefits, the claimant is notified in writing via a written notice (Administrative Decision). If the claimant does not agree with the decision, they have the right to have it reviewed through a hearing. Employers have the same right if a written decision allows benefits to be issued. Hearings are conducted by administrative law judges from the Office of Administrative Hearings and people are given an opportunity, usually over the telephone, to provide information related to whether the person should receive benefits. In most circumstances, claimants and employers who disagree with the administrative law judge's decision can further appeal to the Employment Appeals Board. Claimants who are found to have intentionally withheld or misrepresented facts to obtain benefits can be penalized for up to 52 unpaid weeks, and are required to pay back the benefits and face other penalties that could include a jail sentence.

UI benefits are fully taxable income, and can be received either through direct deposit or a ReliaCard Visa debit account.

SPECIAL UNEMPLOYMENT PROGRAMS

The Work Share Program provides an alternative to employers who are facing the prospect of laying off employees by providing partial unemployment benefits to supplement the reduced wages of qualified employees whose work hours are reduced. Employers apply for the program by completing a written

plan that includes information on the employees with reduced work hours and who are authorized to receive Work Share benefits and a statement that the employee's work hours and wages will be reduced 20 to 40 percent per week. In turn, each employee must have worked full-time for six months, or part-time for 12 months, before receiving Work Share benefits.

The Self-Employment Assistance Program is an option for claimants who have been identified, via a computerized mathematical formula, as likely to run out of benefits before returning to work. Qualifications for the program also include having a viable business idea, the willingness to work full-time in developing the business and the ability to obtain financial backing needed to start and sustain the business until it is self-supported. Enrolled claimants can attend self-employment counseling and training programs and engage in self-employment activities on a full-time basis and are required to complete both a written business plan and a market feasibility study. OED partners with Small Business Development Centers to make training and guidance on entrepreneurship available to people participating in the Self-Employment Assistance program.

Individuals can also receive benefits if their unemployment was the direct result of a major disaster (Disaster Unemployment Assistance) or from foreign trade entering U.S. markets or production being shifted to other foreign countries (Trade Act Program). Also, eligible dislocated workers can be certified by OED to attend school and receive benefits at the same time; the Training Unemployment Insurance program does not pay for training but waives the availability and work search requirements while the claimant attends school full-time.



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Most of these programs are financed by federal funding or administered with collaborative efforts with other organizations.

SOURCE OF BENEFIT PAYMENTS

UI benefits are paid out of the Unemployment Insurance Trust Fund. The fund is financed by employer payroll taxes that are set according to an annual self-adjusting rate schedule. The UI Trust Fund maintains a balance based on statutory requirements tied to the solvency of the fund, and no contributions are from employee wages. Oregon is nationally recognized as having a solvent UI Trust Fund and was one of the few that remained solvent during the Great Recession.

EMPLOYER RESPONSIBILITIES

OED defines a subject employer as an employing unit² that pays wages of at least \$1,000 to employees in a calendar quarter or employs one or more individuals in each of 18 separate weeks during any calendar year. An agricultural employer is considered a subject employer if they pay at least \$20,000 cash wages in a calendar quarter or have 10 or more employees on 20 days, with each day being in a separate calendar week during a calendar year. Employers who employ domestic workers in a private home, local college club or local fraternity or sorority chapter must have paid at least \$1,000 in cash wages in a calendar quarter. There are a number of groups that are statutorily exempt from being considered a subject employer.

An employee is any individual who performs services for another person or organization under the direction and control of that person

or organization. This includes contract, casual temporary labor and cottage industry homeworkers as well as minors and aliens. Some types of services are not covered, such as for members of a limited liability company (LLC) or partnership, or by an independent contractor, although in some cases, business can elect to have these non-covered services covered by the UI system.

Oregon employers provide the funds to pay UI benefits. The method of payment varies depending on the employer type. Most employers pay a quarterly tax to the State of Oregon. State and federal government employers reimburse the state for benefits paid to former employees. Local governments, Native American tribes and nonprofit employers can choose to pay the tax or reimburse the state for paid benefits. Funding for administration of the UI program comes from a federal tax that is assessed on all for-profit employers and paid to the Internal Revenue Service (IRS).

All employers must register with the OED by completing and sending a Combined Employer's Registration Form to the Oregon Department of Revenue (DOR). Employers must also post in the workplace a notice about UI benefits, keep adequate payroll records, pay taxes or reimbursements when due, file the required quarterly or annual tax forms on time with complete information and inform OED and DOR of any changes to the organization or its status. The OED works with other agencies that also deal with employer and employee-related issues as part of the statutorily created Interagency Compliance Network.

² Individual or organization that has at least one individual performing services for it.



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Employers pay UI tax on an annual rate schedule. New employers are assigned a “base rate” until they qualify for an “experience rate,” which is typically after three years. In 2016, the base tax rate is 2.6 percent of taxable payroll, and the experience rate ranges from 1.2 to 5.4 percent, calculated on each employee’s first \$36,900 of wages. Wages paid above the taxable wage base are called “excess wages,” which the employer reports but is not subject to the unemployment tax. Wages include all cash and non-cash remuneration for employment. For agricultural and domestic employment, only paid cash wages must be reported.

The statutory formula for establishing the annual rate schedule is tied to the solvency of the UI Trust Fund, which is set in such a way to finance benefits over a period of business cycles while remaining solvent. There are eight tax schedules set in statute. Each September, OED determines which tax schedule will go into effect for the following calendar year, and notices are mailed to employers in November on the upcoming year’s tax schedule.

In addition to state unemployment taxes, most employers also pay a federal tax according to the Federal Unemployment Tax Act (FUTA). The FUTA tax rate is 6 percent on the first \$7,000 of an employee’s wages. In general, employers can take a credit against the FUTA tax for amounts paid into state unemployment funds as long as state UI laws are consistent with federal requirements. The maximum allowable credit is 5.4 percent, resulting in a net payable FUTA tax rate of 0.6 percent on the first \$7,000 for each employee. These funds are collected by the IRS to fund some of the administrative costs of OED and UI programs throughout the country.

The OED also administers a number of programs for employers, such as seminars and

events regarding employer issues, and the Work Opportunity Tax Credit, which provides incentives for private-sector businesses to hire individuals who have consistently faced significant barriers to employment.

WORKSOURCE OREGON

Beyond administering the UI benefits program, the Employment Department collaborates with state agencies and private partners to operate [WorkSource Oregon](#), a comprehensive workforce resource for connecting businesses with skilled workers and providing training, information and business incentives. At the core of WorkSource Oregon are the 37 local centers that help workers prepare for and find suitable employment, and help employers connect with qualified job applicants.

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