UNEMPLOYMENT INSURANCE

Part I: Programs and Procedures

By Steven P. Zell

Like many of this country's major social programs, the Federal-state system of unemployment compensation had its inception during the Great Depression. Since that time the program has grown in both size and scope far beyond the level envisioned by its creators. A subject of controversy years before economic and social conditions made its existence essential, the unemployment insurance system is now undergoing both its greatest expansion and its closest scrutiny.

Two examples of the tremendous growth of the system are seen in the annual benefits paid and the number of new beneficiaries. In 1940, one year after all of the states began paying benefits, 5.2 million persons received their first benefit checks and $519 million in benefits were paid. By contrast, it is estimated that under the same regular state programs, over 12.2 million persons began a period of compensated unemployment in 1975, and total benefits paid to these persons and to those continuing their unemployment from 1974 exceeded $12 billion. In addition, another $4.3 billion in benefits was paid under two recently enacted extended benefit programs.

Yet, despite the fact that the unemployment insurance (UI) system directly affects millions of families, employs about 100,000 persons, and costs over $1 billion to administer, very few Americans really understand its functionings. This article provides a guide to the UI system by examining three of its most important aspects: its programs, its procedures, and its problems.

ORIGIN AND OBJECTIVES

While the unemployment insurance system has undergone numerous changes since its inception, much in it has remained the same. In particular, its original philosophical underpinnings — who should be compensated, under what conditions, and for how long — have influenced the system throughout its existence. Thus, to understand the current system, it is first necessary to examine it at its beginning.

Origin

The Federal-state system of unemployment insurance originated in 1935 as Titles III and IX of the Social Security Act. The concept of unemployment insurance, however, was not new to the Great Depression. As early as 1920, Professor John R. Commons of the University of Wisconsin succeeded in having a bill for a state program introduced into the Wisconsin legislature and finally in having it passed in 1932. Even before that date, many state legislatures had discussed the desirability of some form of unemployment insurance, yet each was unwilling to levy a tax against its em-

1/*Unemployment Insurance Financial Data, 1938-1970, U.S.* Department of Labor, Manpower Administration, *1971*, pp *141.46*, and *Information on Unemployment* and *Unemployment Compensation Programs*, prepared for the Subcommittee on Unemployment Compensation, House Committee on Ways and Means, September 22, *1975*, Exhibit 12 (U.S. Department of Labor estimates, revised January 1976).

ployers that was not also levied by its neighboring states.

Recognizing that some form of Federal legislation was necessary, President Roosevelt appointed the Committee on Economic Security in June 1934 and asked it to draft a comprehensive program for the income protection of the unemployed. Realizing that the depression-level unemployment had national causes and thus required national solutions, the Committee members recommended a joint Federal-state unemployment system for several reasons. Some of the members preferred to see labor and social legislation administered on the state level, at least partly in fear of the results of imposing a uniform system on the diversified U. S. economy. For the most part, though, a state administered system was proposed on the expectation that a purely Federal system would be declared unconstitutional by the Supreme Court. As shall be noted later, a similar fear strongly influenced the definition of the objectives of the system.

In establishing a framework for the system, the Committee was influenced by both the enormous debt accumulated by the British system of unemployment compensation, as well as by the overly high cost estimates made by its own actuary. As a result, it recommended limiting UI benefits to a maximum of 12 to 16 weeks, with an opportunity for government employment for those who remained unemployed after they exhausted their benefits.[2]

As finally enacted by Congress, a provision of the Social Security Act (later incorporated as part of the Internal Revenue Code and called the Federal Unemployment Tax Act) established a Federal-state unemployment insurance system based on the Committee's recommendations. Under the law, the states were individually free to join or not join the system and to adopt coverage and benefit provisions as they saw fit. To "encourage" the states to join, however, the law provided that certain categories of employers with eight or more workers must pay a Federal tax equal to 3.0 per cent of their payroll. This tax was due the Federal government whether or not a state had an unemployment insurance law. However, employers who were covered by both the Federal law and by a state law meeting certain Federal requirements could deduct 90 per cent (or 2.7 per cent) of this tax liability by paying this portion to the state for use in the payment of unemployment claims.[3] The 0.3 per cent that went to the Federal government was to pay all of the administrative costs of the program.

At their option, states could offer broader or narrower coverage than that specified by the Federal law. But since narrower state coverage penalized uncovered employers (who were still liable for the Federal tax) without benefiting the state, there was little incentive to adopt this option. Effectively, then, the choice available to the states was whether or not to join a costless unemployment insurance system. Employers in the state paid the same tax in either case. The result was that by 1938, every state, as well as Alaska, Hawaii, and the District of Columbia, had joined the system. Puerto Rico joined the system in 1960.

Primary Objective

The new unemployment insurance system was a radical departure from previous welfare and relief programs. The primary objective of the new system was, literally, to insure individual workers against loss of wages as a result of adverse economic conditions. The beneficiaries of the insurance were individuals who earned their benefits by virtue of prior employment and whose benefits were proportional to their prior earnings (as a proxy for lost wages). This contrasted sharply with existing welfare programs which were aimed at families, and whose benefits were determined on the basis of needs.[4] The original UI programs were thus clearly designed for a very specific clientele, and the continuing efforts at both the Federal and state levels

2/Merrill G. Murray, *Income for the* Unemployed(Kalamazoo: The W. E. Upjohn Institute, April 1971), pp. 7-8.

3/As shall be explained, employers may continue to take the full 2.7 per cent credit even if their state UI tax rate is below this level, provided that it has been so reduced through experience rating.

4/George S. Roche, *Entitlement* to Unemployment Insurance Benefits (Kalamazoo: W. E. Upjohn Institute, September 1973), p. 1.

to circumscribe the group of beneficiaries represents perhaps the strongest influence on the development of the system and its regulation~.

In particular, the program was never intended to protect all workers against all wage losses. Instead, it attempted to adhere to some loose common notion of the type of worker who should be com-, pensated, and, seemingly more important, of the type of worker who should not be compensated and the type of behavior that was unacceptable for a worker who really wanted a job. This attempt to define who may or may not be compensated is largely responsible for the enormous complexity and diversity of the state laws today.[5]

The system was specifically aimed at the unemployed ***regular*** worker, a full-time worker who had just lost a permanent job due to economic conditions and who would either be rehired or would find new, permanent employment. Unemployment benefits were intended to be of relatively short duration. On the other hand, the system specifically excluded the highly seasonal worker through its explicit exclusion of agriculture and its initial requirement that covered employers must employ eight or more workers for at least one day in each of 20 weeks. Finally, many of the complicated entitlement provisions and disqualifications which today apply to all claimants originated as legislative or administrative responses to the problem of paying benefits to workers who were neither "regular" nor "seasonal," but rather who operated in that part of the labor market now increasingly referred to as the "secondary sector."[6] The labor market attachment of both seasonal and secondary sector workers was suspect, and this was viewed as grounds for disqualification.

Other Objectives

In addition to its primary objective of providing protection against wage loss, the system as established incorporated three other general goals: (1) stabilizing the economy in the face of an economic downturn by maintaining the purchasing power of laid-off workers; (2) establishing economic incentives to encourage employers to stabilize their employment; and (3) providing placement, training, and counseling services to unemployed workers to assist them in finding employment.[7]

The first of these goals, stabilization of the economy, represents one of the strongest arguments in favor of the UI system. It is predicated on the belief, later espoused by Keynes, that government transfer payments in an economic downturn will tend to moderate that decline by maintaining purchasing power and thus preventing a drastic cutback in consumption in the face of lost wages.[8]

The second of these goals, stabilizing the employment practices of employers, was adopted to varying degrees by the states. Basically, it was hoped that if employers perceived that their UI tax rate would rise with the frequency of their layoffs, they would be encouraged to practice a more stable employment policy. This would be accomplished through what is known as ***experience rating.*** Under this system, separate accounts exist for each employer, and these accounts are credited with all tax payments he has made and charged with all benefits paid to his workers who have become unemployed and are eligible. The net balance determines his "experience" and his tax rate, usually within 'some specified range. The effectiveness of this procedure as implemented is questionable, however, and some of its problems will be discussed later in this article.

The third general objective was to provide a program to assist the unemployed in finding reemployment as soon as possible. .Accomplishment of this goal was attempted principally through affiliating the UI system with the U. S. Employment

5/*Ibid,* pp. 6-7.
6/*Ibid,* pp. 6-11. See Steven P. Zell, "Recent Developments in the Theory of Unemployment," Federal Reserve Bank of Kansas City *Monthly Review,* September-October 1975. pp. 7-10.

7/Roche, p. 2. While these were all legitimate objectives, they were adopted, in pan, to provide "an element of public interest that was needed if the courts were to hold the [Federal and state] laws constitutronal as a valid exercise of 'police power' under which our governments can act to protect the general welfare," rather than declaring "that the taxes were a taking of private property without due process of law. . . ."
8/The symbol of the UI system is a gyroscope with the words, "Unemployment Insurance • Income Stabilizer."

Service (ES) which had been created in 1933 under the Wagner-Peyser Act. All UI claimants were, and still are, required to register with the ES as a prerequisite for receiving benefits. The public employment office was supposed to verify both the claimant's availability and willingness to work (two prerequisites for benefits in all states), test the applicant's abilities, and provide suitable job references. For many years, the ES was so inundated by this affiliation that it became known as the "unemployment service." Currently, the ES has expanded its services to aid other special population groups, and the UI system has taken on more of the responsibility of verifying the appropriate job search of its claimants. The ES and UI system remain cooperative but independent programs administered by the Employment and Training Administration (formerly the Manpower Administration) of the U. S. Department of Labor.

TERMINOLOGY AND PROCEDURES: MISSOURI

One of the best ways to understand the data, terminology, and concepts of unemployment insurance is to consider them in the context of the actual operations of a representative state system. For this purpose, this article examines the regulations and procedures of the Missouri Division of Employment Security (MDES).[9]

In Missouri, as in all other states, the great majority of UI claimants and most of the benefits paid are administered under the ***regular state program.*** In addition, each state also administers separate "regular" programs for ex-servicemen (UCX) and for ex-Federal civilian employees (UCFE). The rules and regulations governing these separate programs vary from state to state but are the same as those that pertain to each state's own regular program.[10]

Not all workers, however, are eligible for benefits under the regular UI programs. Above and beyond the qualifying procedure through which every claimant must pass, an unemployed worker who seeks to collect unemployment compensation in Missouri must first have been employed in covered employment for at least two quarters and earned sufficient wage credits there to qualify as an insured worker.[11] With the exception of employment in such specifically disqualified sectors as agriculture and domestic work, from 1937 to 1955 covered employers (those subject to the Federal unemployment tax on their payrolls) were defined as those who employed eight or more workers in at least 20 weeks during the calendar year. The present Federal standard, effective since January 1, 1972, defines covered employers as those employing one or more workers for at least 1 day in each of 20 calendar weeks, or having a payroll of $1,500 or more in any calendar quarter.[12]

A worker in covered employment in Missouri who becomes unemployed begins the procedure to collect unemployment compensation by reporting to his local Missouri Division of Employment Security (MDES) office. There, he first registers for work with the Employment Service. The job of the ES is to collect a detailed summary of the applicant's qualifications and work history and to try to match him with a suitable job opening which has been listed with the service by a cooperating em-

9/The author is Indebted to John A. Moorman, Claims Supervisor, for his kind cooperation in providing information on the operations of the Missouri Division of Employment Security. Additional information was obtained from a publication of that Division, "Introduction To Unemployment Insurance," May 1975.

10/Railroad workers have a completely separate system administered by the Railroad Retirement Board. Each state system also administers a Federal-State Extended Benefits (EB) program and a Federal Supplemental Benefits (FSB) program for individuals who have exhausted their regular benefits (Including ex-servicemen and ex-Federal civilian employees) and a Special Unemployment Assistance (SUA) program for some population groups previously not covered by UI. The EB program is a permanent part of the system while both the FSB and SUA programs are temporary The general purpose of these three programs, which went into effect when the unemployment rate exceeded a specified level, is to alleviate the severe effects of the present recession on employment. See Part II of this article in a subsequent Monthly Review for a more detailed examination of these special extended programs

11/The specific wage eligibility requuements are discussed in detail later. Because of these restrictions on covered employment and wage eligibility, new entrants to the labor force and many reentrants who have not been employed for some time, are not eligible to receive unemployment compensation, although they may technically be unemployed by the usual definition. See Steven P. Zell, "A Labor Market Primer," Federal Reserve Bank of Kansas City Monthly Review, January 1975.

12/Thirty-one states, including Missouri, use this definition of covered employment. The remaining states generally provide broader coverage. In addition, from January 1, 1972, UI coverage throughout the nation was extended to workers in state hospitals, colleges and universities, and to workers employed by certain nonprofit organizations which employ four or more workers in a calendar quarter. Self-employment is excluded from coverage in all states For further exclusions and qualifications, see: *Information* on Unemployment and Unemploymenr Compensation Programs, pp. 5-6.

ployer. No fee is charged to either the employer or the applicant for this service. Following this application, the unemployed worker moves to the unemployment insurance section and files his ***initial claim.***

Filing a Claim

The initial claim, a notice filed by a worker that he is starting a new period of unemployment, is the keystone of the UI system. In Missouri, as in all states except New Hampshire, it establishes both the worker's ***benefit year*** and ***base period.***

The benefit year is a 1-year period generally beginning with the first day of the week (Sunday, in Missouri) in which an initial claim is filed. The base period is a 1-year period preceding the filing of the initial claim. In Missouri, and in the majority of states, this period is the first four of the last five ***completed*** calendar quarters prior to the beginning of the benefit year. For example, if an initial claim is filed in a week in which the Sunday falls in either July, August, or September of 1975 (the third quarter), the benefit year extends for the next 52 weeks. The base period does not include either the uncompleted third quarter of 1975, or the second quarter, known as the lag quarter. Instead, it includes the 1st quarter of 1975 and the 4th, 3rd, and 2nd quarters of 1974. The base period thus runs from April 1, 1974 through March 31, 1975. The claimant's earnings in covered employment during the base period determine both the weekly benefit and the total amount of benefits which he can receive during the benefit year.

After an initial claim is filed in Missouri, the worker is given an identification card and is told to report back to the office, generally in 2 weeks. During this 2-week period, two determinations are made. The first is whether the claimant is eligible, by virtue of having accumulated sufficient wage credits in his base year, to qualify as an ***insured worker.*** In Missouri, to qualify as an insured worker, a claimant must have been paid wages in covered employment of $300 or more in one quarter of his base period, earned some wages in at least another quarter, and received total base period wages of at least 30 times his Weekly Benefit Amount.[13] The second determination, to be discussed below, is whether the worker had done anything in his base period work experience which might disqualify him from receiving benefits. If he is found to have earned sufficient wages to be eligible, he is notified by mail and told his ***Weekly Benefit Amount,*** his ***Maximum Benefit Amount,*** the wages that were paid him by each employer in each quarter of his base year, and the start of his benefit year.[14] These data are automatically calculated for each claimant with eligible wage credits even if he never actually collects any benefits.[15]

The Weekly Benefit Amount (WBA) in Missouri is simply the payment that an eligible claimant may receive for each week he is unemployed. Subject to an $85 maximum and a $15 minimum, the WBA is calculated as 1/20 of the total wages paid to the claimant in that base period quarter in which his highest wages were earned.

Most other states also calculate the WBA as some fraction of the highest quarterly wage (HQW), the rationale being that earnings in the high quarter are considered to most nearly reflect the wages that would be lost by unemployed full-time workers. As noted earlier, of course, compensating these workers was the central emphasis of the original system. Thus, if the fraction of HQW compensated is 1/26, a worker with 13 full weeks of employment in his high quarter will receive a weekly compensation of 50 per cent (13/26) of his lost average weekly high quarter wage in each week of unemployment, provided this figure does not exceed the statutory maximum. Missouri's provision of 1/20 of the HQW is more liberal, and is based on the premise that for many workers, even the highest quarter of earnings may include some unemployment. Of course, this means that some claimants who worked 13 weeks in their high quar-

13/See definition in the following paragraph. Note that the two quarter earnings requirement is included to avoid paying benefits to seasonal and secondary sector workers.
14/The wage data for each employee are submitted by employers to the MDES at the end of each calendar quarter and recorded by the worker's social security number
15/An eligible worker might never collect benefits if he either finds a job in a few days or is subsequently disqualified for a variety of reasons to be discussed later

ter will receive as much as 65 per cent of their average weekly high quarter wage.[16]

Similarly, the Maximum Benefit Amount (MBA) is the total a claimant is eligible to receive in a benefit year. It is calculated by crediting him with the wages actually paid to him in insured work during each quarter of his base period or with $2,210 per quarter, whichever is less. The MBA is then further restricted to, at most, 26 times his WBA while not exceeding 1/3 of his total allowable wage credits. These restrictions were established because it is the MBA, in conjunction with the WBA, which determines the potential duration of benefits in weeks, up to a statutory maximum of 26 weeks of compensation. The way these concepts interact can best be understood by considering the examples in the adjoining box.

To recapitulate, following the filing of his initial claim, the worker is told to report back to the MDES office, generally after 2 weeks. During this time, the worker's wage credit eligibility is determined. In addition, all of his former base period employers are notified by mail that the unemployed worker is filing a claim. While 33 states consider that the circumstances of the worker's last separation are the only ones affecting his entitlement to benefits, Missouri and 18 other states consider all separations in the base period. Generally speaking, if the worker either voluntarily left work without good cause attributable to his work or to his employer, was dismissed for misconduct, or refused to accept suitable work, various penalties are applied to the employee's benefits, ranging from the delay of payments to the cancellation of wage credits.

When employers are informed of the filed claim, they have 10 days after the mailing of the notification to contest that claim. The incentive for an employer to contest a claim is provided by the experience rating system mentioned earlier. Under this system, though the basic tax rate paid by an employer in Missouri is 2.7 per cent of the first $4,200 of an employee's earnings, the rate is flexible within a range of 0.0-3.6 per cent.[17] Thus, an employer who has few unemployment claims

EXAMPLES

Man A worked 10 weeks per quarter in each of three quarters in his base year and 12 weeks in the fourth. In all cases, his overage weekly wage was $120 per week.

Total Earnings	Allowable Wage Credits	HQW	WBA	MBA	Benefit Duration (weeks)
$5,040	$5,040	$1,440	$72	$1,680	23.3

1. HQW = (12 weeks/quarter) x ($120/week) = $1,440/quarter.
2. WBA = HQW ÷ 20 = $72/week.
3. MBA = 26 x WBA = $1,872 **but** not exceeding MBA = 1/3 x Allowable Wage Credits = $1,680.
4. Benefit Duration = MBA ÷ WBA = ($1,680) ÷ ($72/week) = 23.3 weeks.

Man B worked in all 52 weeks in his base year at $150 per week.

Total Earnings	Allowable Wage Credits	HQW	WBA	MBA	Benefit Duration (weeks)
$7,800	$7,800	$1,950	$85	$2,210	26

1. HQW = (13 weekdquarter) x ($150/week) = $1,950/quarter.
2. WBA = HQW ÷ 20 = $97.50 **but** not exceeding $85.00 maximum.
3. MBA = 26 x WBA = $2,210 **but** not exceeding MBA = 1/3 x Allowable Wage Credits = $2,600.
4. Benefit Duration = MBA ÷ WBA = ($2,210) ÷ ($85/week) = 26 weeks.

Man C worked in only three quarters in his base year for 13 weeks per quarter. He earned $230 per week in two of the quarters and $250 per week in the third quarter.

Total Earnings	Allowable Wage Credits	HQW	WBA	MBA	Benefit Duration (weeks)
$9,230	$6,630	$3,250	$85	$2,210	26

1. HQW = (13 weeks/quarter) x ($250/week) = $3,250/quarter.
2. WBA = HQW ÷ 20 = $162.50 **but** not exceeding $85.00 maximum.
3. Allowable Wage Credits = Total Earnings not exceeding $2,210 per quarter = $6,630.
4. MBA = 26 x WBA = $2,210 **but** not exceeding 1/3 x Allowable Wage Credits = $2,210.
5. Benefit Durotion = MBA ÷ WBA = ($2,210) ÷ ($85/week) = 26 weeks.

NOTE: The percentage of overage high quarter weekly wages reimbursed was, respectively, for
Man A: 781120 = 65%;
Man B: 851150 = 56.7%;
Man C: 85/250 = 34%.

16/That is, if WBA = 1/20 x HQW, then WBA = 1/20 x (lost wages per week in HQ) x (no. of weeks in HQ) and if no. of weeks in HQ = 13, then WBA = 13/20 x lost wages per week in HQ. If a worker's lost wages were high enough that this expresston exceeded $85 per week, however, the percentage of his lost wage that would actually he reimbursed would be less than 65 per cent.

17/Effective January 1, 1976, this wage base was raised to $4,500 and a 0.5 per cent tax rate surtax was applied to all employers These raises are an attempt to partially compensate for the tremendous growth in benefits paid out by the system during the present recession.

charged against his account may eventually end up paying no state UI tax, while an employer with a heavily charged account may pay as much as a **3.6** per cent state UI tax for each employee. Note that even if an employer pays no state UI tax, he can still deduct 2.7 per cent from his **3.2** per cent Federal UI tax liability.

Claim Not Contested

Consider fist the case where none of the claimant's former employers contest the claim for unemployment compensation and no issue is raised by information furnished by the claimant. When the claimant returns to the MDES office after 2 weeks, he is asked to file two ***continued claim*** cards. Each card certifies that the claimant has just experienced 1 week of unemployment and that during that week he fulfilled three requirements for eligibility. First,' he must have been "available for work" during that week. This is interpreted as meaning that the applicant both desires work and is willing to work under circumstances in which he might reasonably expect to find work. For example, if he insisted on working only at a type of job which no longer existed in his town, he would be declared unavailable and thus ineligible for benefits. Similarly, if he moved to a remote area where there was little chance of his finding employment in his field, he would be declared unavailable for work.[18] Second, he had to have been physically "able to work" in the type of employment he was seeking. And third, he must have been "actively seeking work" above and beyond merely registering for work with the ES. Basically, he must have been following a reasonable procedure, similar to what he had done in the past, which seemed designed to result in his finding employment.

If these qualifications are met, and the worker is not currently participating in a labor dispute, he is eligible for his first benefits. In his first check, however, usually received a few days after filing the first two continued claims, the claimant is only compensated for 1 week of unemployment, because most states define the first eligible week of unemployment as a "waiting week," which is not compensable. All subsequent continued claims for eligible weeks of unemployment are compensable. However, in Missouri, if 9 consecutive weeks are paid, the waiting week at the beginning will be compensated.[19] Finally, the worker is given a a series of dated continued claim cards in envelopes and is asked to complete and mail in one card for each week of eligible unemployment that may follow. Generally, he must come in to check with the ES about potential jobs approximately every **60** days. At that time, he will be given more continued claim cards if he has not exhausted all of his benefit eligibility. Aside from his certification on each card that he has satisfied the necessary eligibility requirements, no intermediate check is made on him. After a period of time, however, if he is still unemployed, he will probably be required to lower the wage level he considers acceptable and/or to broaden the work categories he considers suitable. In addition, once every quarter, all claims and earnings records are audited to determine whether any employee worked in a week in which he also received benefits

If a worker collects some benefits in his benefit year, is reemployed for a few weeks, then is laid off before the expiration of his benefit year, he files a renewed claim. This allows him to receive the remainder of his benefit entitlement which was determined when his initial claim was filed. Though this renewed claim is counted in the published initial

18/An excellent example of this rule was tested in a New York State court on July 5, 1972 Under what is known as the "reciprocal benefits" agreement, all states have agreed that if a worker earns wage credits in one state, becomes unemployed through no fault of his own, and moves to a second state, he can file for UI benefits, which, if all requirements are met. will be paid on these credits by the first state.

In January 1968, the state of New York began enforcing what was known as the "12 per cent rule" against persons who had earned wage credits in New York, were laid off, and then moved to Puerto Rico. This rule stated that persons changing their residence to a geographical area in which the unemployment rate was 12 per cent or higher, were effectively removing themselves from work availability and, therefore, in the eyes of the state of New York, were no longer eligible For unemployment compensation. In the case entitled "Vicente Calvan and Marcellino Torres versus Louis K Levine, Industrial Commissioner of the State of New York." the court decided that while the 12 per cent rule was constitutional, it had been selectively designed and applied only against applicants from Puerto Rico and was thus illegal in this case.

19/The weekly count of continued claims is referred to in the published data as the amount of *insured* unemployment It is frequently, though incorrectly, defined as the number of persons receiving unemployment compensation. However, because it includes waiting weeks, as well as some claimants who are subsequently determined either ineligible by reason of insufficient wage credits or who are disqualified, it is often a significant overcount of the number of beneficiaries Surprisingly, no exact count of the number of beneficiaries is published

claim statistics, ***administratively*** there is only one initial claim and one waiting week during any benefit year. If this worker exhausts his benefit entitlement, he cannot file again for compensation until the first benefit year expires. After that, if still unemployed, he files a new initial claim, establishes a new base period and benefit year, and, if eligible, must serve a new waiting week before receiving benefits.[20]

Claim Contested

The alternative to an uncontested claim is a case where one or more of the former base-period employers chooses to contest a claimant's assertion that he is unemployed through no fault of his own and is thus eligible to receive unemployment compensation. Under the Missouri law, a claimant who would otherwise be eligible to receive benefits may be disqualified if he either: (1) left his job voluntarily without good cause attributable to his work or to his employer; (2) has been discharged or suspended for misconduct connected with his work; or (3) failed, without good cause, to accept suitable work offered through the ES or by a former employer.[21] Before considering these disqualifications, it is instructive to examine how employers' accounts are charged when a claimant collects benefits.

If a filed claim is not contested, benefits are drawn and charged to the accounts of base period employers in reverse chronological order. A maximum of one-third of the wages paid by any base period employer can be charged against him, but these charges cannot exceed one-third of $2,210 for any base period quarter or a total of $2,210 for the entire base period. Total charges to all employers cannot exceed the maximum benefit amount for which the claimant is eligible. If, however, a claimant is disqualified for any of the above reasons, a variety of penalties, depending on the offense, will be assessed.

The typical penalty is a delay in the payment of benefits. If a claimant is still unemployed after serving his penalty period, he is, in general, entitled to receive his full benefits (for each subsequent week of unemployment) following a waiting week which must be served at the end of his disqualification. However, should the disqualifying employer's account be reached in the process of paying these benefits, it is fully protected against being charged. Instead, a special fund, set up for this purpose, pays the benefits. This protection tends, over time, to improve the experience rating of the employer and, thus, to lower his tax rate.[22]

The 19 states that determine benefit entitlement on the basis of all job separations in the base period, disqualify a claimant who ***voluntarily left any of these employers without goodcause.*** In addition, ***14*** of these states, including Missouri, restrict the consideration of "good cause" to that directly attributable to the claimant's work or to his employer. For example, quitting a job because one disliked the color of the uniforms would not be good cause. However, though quitting a job in order to take care of an ill spouse would be good cause, it would still result in a benefit disqualification since it was not

20/"All states that have a lag between the hase period and benefit year place limitations on the use of lag-period wages for the purpose of qualifying for benefits in the second benefit year. The purpose of these special provisions is to prevent henefit entitlement in two successive benefit years following a single separation from work," a procedure known as "double-dipping." From *Information on Unemployment* . ., p. 8 In Missouri, the restriction is that a worker must have earned 5 times his WBA in covered employment or 10 times his WBA in any employment before requalifying to receive benefits in a new benefit year. If a worker files an initial claim before this, it fixes his new hase and henefit years, though he cannot collect benefits until he satisfies this requirement A possible advantage in so filing is that it allows his lag-period wages to be mcluded in his new base year wage credits. These credits would be lost if he did not file until the second quarter after the end of his first benefit year since the new hase year includes only the first four of the last five completed quarters.

21/Effective September 28, 1975, Missouri Senate Bill 358 eliminated the previous automatic ineligibility of a pregnant claimant for 3 months prior to the expected date of birth and for 4–weeks after the birth of her child. Now, determinations will be made for pregnant claimants on the basis of their individual ability to work and on their availability

In 19 other states, pregnancy is still grounds for an automatic disqualification This policy appears likely to be invalidated, however, by a November 18, 1975 Supreme Court decision. In a Utah case, the Court ruled that the presumption that all women in or beyond their sixth month of pregnancy are unable to work is a violation of the 14th Amendment Lesley Oelsner, "Supreme Court Upholds Jobless Pay In Pregnancy," New *York Times,* November 18, 1975

22/One of the criticisms of experience rating, however, is that the maximum and minimum tax rates tend to greatly attenuate both the hoped for job stabilization effect as well as the Incentive to protest unjust claims. If an employer has a strong surplus in his account and is thus paying the minimum tax rate, a marginal increase or decrease in the number of claims filed against his account will not affect his tax Similarly, if already at the maximum tax rate, an employer with an unstable layoff history has no incentive to improve since additional layoffs do not result in any additional cost under the UI tax system

job related.[23] If a worker is disqualified in Missouri for voluntarily quitting, the penalty is an indefinite delay in benefits until the claimant has worked at other jobs, earning at least 10 times his Weekly Benefit Amount (determined when the initial claim was filed), and then is once again unemployed through no fault of his own.

This same penalty is applied in Missouri if disqualification results from a claimant's ***refusal to accept suitable work.*** The concept of "work suitability" is a largely subjective one which tends to change with the duration of unemployment. In essence, a potential job is examined as to the kind of work it represents, the wages it pays, its working conditions, and its distance from the claimant's residence. These factors are then compared with those of the typical work experience of the claimant. If they compare favorably, he must take the job or be disqualified from receiving UI benefits. In addition, just as in the "availability" determination, a worker cannot set "suitability" standards which are unrealistic given the community in which he lives. Finally, if his unemployment persists, a claimant may be required to accept work which would have initially been termed "unsuitable."

If a worker is disqualified because he was ***discharged or suspended for work related misconduct,*** the penalty depends on the seriousness of the offense. Misconduct is usually defined as any action, detrimental to the interests of the employer, which was either deliberate or within the power of the employee to control. Thus, dismissal due to an absence for an illness might not be a disqualifying offense, while discharge due to an absence for drunkenness or due to an unauthorized trip probably would be. Similarly, an incompetent or unintentionally slow worker would not be disqualified if he had been discharged for this reason, while a purposely careless or lazy worker would be disqualified. The penalty for this type of disqualification is a delay in the receipt of benefits from 1 to 8 weeks. During this period, the claimant is required to file weekly claims for compensation, but benefits cannot be started until a waiting week has been served following the end of the period of disqualification.

Lastly, the most serious disqualifying offense is ***aggravated misconduct.*** In these cases, which involve theft, dishonesty, or "wanton disregard of the employer's interest which might result in serious loss of property," a dual penalty is applied. Not only is there an automatic 8-week delay in the receipt of benefits, but all or any part of the claimant's wage credits earned while employed by the discharging employer may be cancelled at the discretion of the UI agent.

Either party, claimant or employer, receiving an adverse ruling on a disqualification charge, has the right to appeal within 10 days of the mailing of the determination.[24] Within about 3 weeks after the filing of the appeal, a hearing is held by a representative of the MDES, known as an appeals referee. Hearings are informal and based on all available evidence although testimony is taken under oath. Either party may have a lawyer or a witness present and a decision is usually rendered within 10 days. Further appeals, if desired, may be taken to the State Labor and Industrial Relations Commission, which is simply a board of review, and then to the courts.

SUMMARY

The Federal-state system of unemployment insurance was created by the Social Security Act of 1935 as an outgrowth of recommendations made by President Roosevelt's Committee on Economic Security. Membership by the states was not required. However, the Federal Unemployment Tax that was imposed on each state's employers was so constructed that by 1938 all of the states, as well as Alaska, Hawaii, and the District of Columbia, had joined the system. Puerto Rico joined in 1960.

23/The law does specify that neither leaving a job to accept a better job nor quitting a temporary job to return to one's regular employer is grounds for disqualification. Note, in fact, that in order to be eligible for benefits, a claimant must establish that he is looking for full-time work, even if he has a history of part-time work which has given him monetary eligibility This requirement is an attempt to conform to the "regular" worker focus of the original UI system.

24/The one exception to this is the case of former Federal employees, where, by agreement with the Secretary of Labor, the Federal Government's determination of the facts of a case must be taken as true This, however, is likely to be changed in a new UI law currently under consideration by the Congress

The primary objective of the system was to protect individual workers against a loss of wages due to adverse economic conditions. Benefits were considered as earned by virtue of prior employment. The program was aimed specifically at the unemployed regular, full-time worker. Other objectives included stabilizing the economy by maintaining purchasing power, encouraging employers to stabilize their employment, and providing assistance to workers in finding employment. These objectives remain the focus of the modem UI system.

Over the years, the procedures for determining eligibility, benefit size, and benefit duration have become increasingly complex and varied. Each state now administers a variety of programs, but the great majority of benefits are paid under the regular state programs. To be eligible for benefits, a claimant must first have earned sufficient wage credits in covered employment as defined by the state. State laws tend to include in their definitions of covered employment at least those employers specified by the Federal law. They may have broader or narrower coverage, but the narrower coverage penalizes employers and offers no advantage to the state.

An unemployed worker must register for a job with the employment service and file an initial claim for benefits. The date of filing establishes both the wages which are examined to determine his potential benefits as well as the period over which he might be eligible to receive these benefits. However, eventual benefit receipt depends on several factors. During each week of unemployment, a claimant must establish that he is available for work, able to work, and actively seeking full-time work.

Further, a claimant must be unemployed through no fault of his own. In Missouri and 18 other states, a claimant may be disqualified from receiving benefits if it is established that he either voluntarily left work without good cause attributable to his work or to his employer or was dismissed for misconduct related to his work. In addition, once unemployed, he may be disqualified for refusing to accept suitable work. Various penalties may be assigned depending on the offense. Either the claimant or the former employer may appeal an adverse determination.

The second part of this article, to appear in a subsequent Monthly Review, will examine the variety of programs which exist among the states and the special extended benefit and expanded coverage programs which are in effect during the present recession. In addition, some major criticisms and problems of the UI system and some proposed solutions will also be studied.