

LEGISLATIVE REPORT

Work search requirements

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Background

Bill overview

In 2023, the Legislature passed, and the governor signed, Senate Bill (SB) 5331¹: “Concerning job search requirements for unemployment insurance benefits.” This codified permanent language the Legislature adopted in 2021².

Before 2021, claimants receiving unemployment insurance (UI) benefits were required to complete at least three job search activities each week they claimed benefits. They needed to either contact employers or participate in activities at a local reemployment center (WorkSource office). Now, the Employment Security Department (Employment Security) may offer additional work search activities that claimants may access to meet the weekly requirements. New activities must help customers gain reemployment in suitable work and meet “the intent of rigorous reemployment efforts.”³

Improper UI payments and work search errors

Benefit Accuracy Measurement (BAM) is an audit program within the department. It reviews a sample of claims each year and checks for performance measures. Both BAM and the performance metrics reviewed are federally mandated.

One measure BAM checks is the percentage of improper payments. Based on federal guidelines, this must be less than 10% of payments made each year. Between 2016 and 2018, 13.5 to 19% of UI benefits audited had improper payments to claimants. Claimant errors in work search activities caused about two-thirds of those.

The high error rate garnered attention from Employment Security and the U.S. Department of Labor (USDOL). USDOL began to offer technical help in March 2019.

¹ app.leg.wa.gov/billsummary?BillNumber=5331&Initiative=false&Year=2023.

² app.leg.wa.gov/billsummary?BillNumber=1493&Year=2021.

³ Laws of 2021, ch. 82, Sec. 1(1)(b).

Update and next steps

Implementing work search flexibilities and impacts

Substitute House Bill (SHB) 1493's passage allowed Employment Security to address the 2019 improper payment findings. The Legislature and Employment Security also added new work search activities due to the COVID-19 pandemic.

In 2021, the department [conducted rulemaking](#)⁴ to define what is considered a suitable job search contact and added more approved activities. Employment Security allowed "other approved activities listed on the department's website at the time the weekly claim was filed."⁵ Employment Security also added several virtual activities, including virtual courses, training and online labor market research. Employment Security also updated requirements for:

- Adult Basic Education (ABE) classes.
- General Educational Development (GED) classes.
- English as a Second Language (ESL) classes.

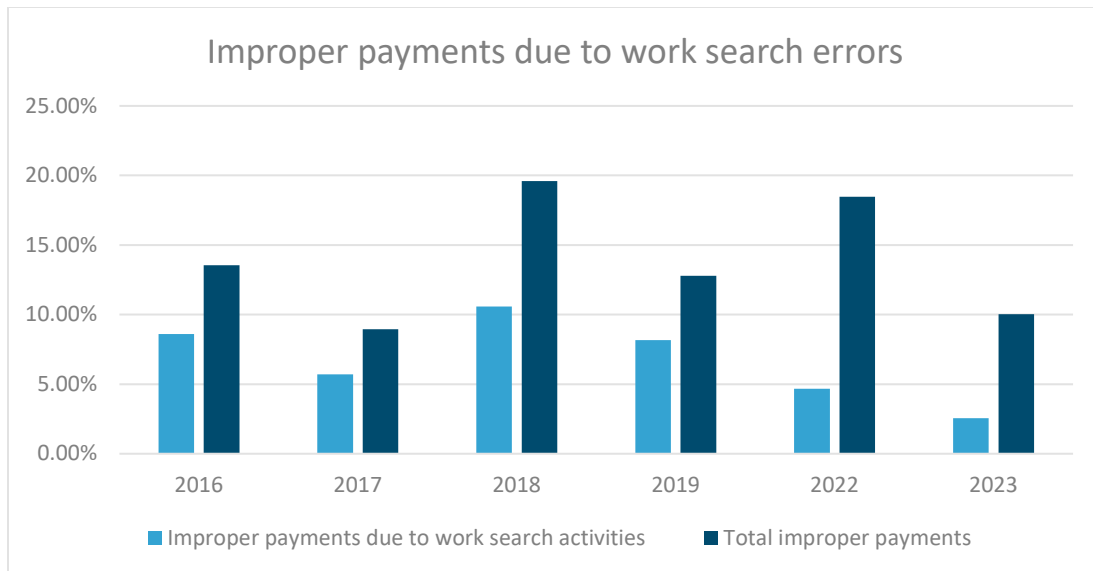
Before, Employment Security listed ABE, GED and ESL classes as WorkSource activities, meaning they needed to be held in or be documented by a WorkSource office. Now they are 'Optional' activities, which claimants may complete virtually.

WorkSource staff must document WorkSource activities in the state Management Information System (MIS) for the activity to be considered complete. "Other" activities do not need documentation in the MIS. Claimants must keep a log of all their work search activities, along with documents that allow Employment Security to verify those activities.

After these changes, Employment Security has seen fewer improper payments due to work search errors. According to BAM audits, the numbers have trended as follows:

⁴ lawfilesexternal.wa.gov/law/wsr/2021/14/21-14-035.htm.

⁵ [WAC 192-180-010](#) (4)(j).



- **2016 to 2018:** 8.6%, 5.7% and 10.5% of improper payments due to work search activities (total improper payments were 13.5%, 8.9% and 19.5%)
- **2019:** 8.159% of improper payments due to work search activities (total improper payments was 12.793%)
- **2020 and 2021:** Data is not valid due to pandemic responses suspending BAM audits and work search requirements.
- **2022:** 4.675% of improper payments due to work search activities (total improper payments was 18.478%)
- **2023:** 2.562% of improper payments due to work search activities (total improper payments was 10.034%)

Year after year, the percentage of improper payments due to work search activity errors has declined to 2.5%. This indicates that flexibility in both allowable activities and documentation has helped. Claimants are making fewer errors in their weekly filings, resulting in fewer improper payments due to work search errors.

Employment Security considered several additional data points that could be explored in future reports. Additional analysis may determine if there are correlations between the following data points and work search activities:

- **Trust fund impact:** Teasing out a trust fund impact would be very difficult. Broader economic factors are what largely influence the overall trust fund health. For example, the unemployment rate and labor market.

- **Reciency rate:** Employment Security can look at the percentage of claims paid compared to those received but not paid. It is not conclusive that work search requirements are the main driver for paying or not paying claims.
- **Denial rate:** This is similar to reciency rate. However, Washington’s denial rate has increased year after year since 2019. So, the denial rate increased while Employment Security made work search activities more flexible. Again, it is not conclusive that work search requirements are the primary driver.
- **Average length of claim:** The average length a claimant is getting benefits will more likely depend on their ability to return to the labor market. While work search activities influence this, so does the health of the labor market. The pandemic shifted claimant behavior, including how they look for work. Employment Security needs more in-depth analysis to determine the relationship between length of a claim and work search activities.

Next steps

Employment Security would like to work with the Unemployment Insurance Advisory Committee. In partnership, this work can continue exploring how to evaluate and assess the impacts of work search requirements. Conversations will include the following:

- Reevaluate and define the purpose of work search activities and the goal of enforcement.
- Continue analyzing and understanding data around work search activities and the intersection with other data points such as denials and improper payments.
- Work with partners administering programs like Reemployment Services & Eligibility Assessment (RESEA).

Unemployment Insurance Advisory Committee (UIAC) response

The business representatives on the Unemployment Insurance Advisory Committee (UIAC) express gratitude for the chance to provide input on the 2024 Work Search Requirement Report. Senate Bill (SB) 5331, enacted in 2023, mandates the department to report to the legislature’s relevant committees on the effects of any flexibilities employed in claimant job search methods, monitoring, and outcomes.

Concerns

Maintaining rigor: While the intent behind increasing flexibility in work search activities is commendable, increased flexibility in work search activities is intended to help claimants; businesses might be concerned about maintaining the rigor of reemployment efforts and preventing abuse of the system. The shift to virtual activities and the optionality of documentation for certain activities might concern employers who rely on the verification process to ensure claimants are actively seeking employment.

Audit transparency: The audit details provided are insufficiently clear. More information on the documentation audited in relation to the new work search flexibilities would be beneficial as it may already cover some of the concern just mentioned above, but it is unclear in the report. The Benefit Accuracy Measurement (BAM) program's methodology for selecting claims and the criteria for determining improper payments need to be transparent and consistent.

Data correlation: The link between work search activities and other metrics (such as the trust fund impact, reciprocity rate, denial rate, and average length of claim warrants) further investigation to comprehend the broader implications or advantages of policy changes like the expansion of work search requirements. This is critical information to have a more complete picture for the legislature and the UIAC's work regarding work search requirements.

Suggestions for improvement

In-depth analysis: A thorough analysis to understand the relationship between work search activities and the duration of UI claims, as well as other factors affecting the UI trust fund and claimant behavior, is essential.

Future planning: Information on whether the department intends to continue updating work search requirements would be insightful. Conversely, if there is no desire to change requirements, this information would also be valuable.

In conclusion

The business members of the UIAC look forward to continued collaboration with the department to evaluate and refine the impacts of work search requirements. We hope the department will consider this feedback as it moves forward.