

LEGISLATIVE REPORT

# Unemployment insurance benefits for apprenticeship program participants

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# Executive summary

The 2023 Legislature directed the Employment Security Department (Employment Security) to convene a workgroup to identify and address legal and procedural barriers faced by eligible claimants participating in apprenticeship programs when those claimants seek timely access to unemployment benefits. The workgroup was made up of representatives from state-registered apprenticeship training programs and advocates who represent the interests of registered apprentices. The workgroup met several times during the summer and fall of 2023.

Employment Security also held a listening session and one-on-one interviews with apprentice claimants. These engagements included training agents, training program administrators and union hall representatives, as well as apprentices from several trades who are participating in both union and non-union registered apprenticeship programs.

The workgroup's findings led to the following recommendations, as discussed in more detail later in the report:

- Subject to additional funding, Employment Security can develop and provide training on filing claims and navigating the unemployment system for apprentices and apprentice advocate groups. Through these trainings, Employment Security and apprentice advocate groups can partner to assist and guide apprentices.
- Through training and advocacy, apprentices can be educated and encouraged to be proactive with filing claims, regularly checking their accounts—even when not claiming benefits—and resolving issues as they arise. These actions may help reduce delays with receiving benefits.
- Subject to additional funding, Employment Security can make technological changes that would streamline the benefit application process.
- Additional sources of funding, such as state and federal grants, could be developed with the goal of helping fill gaps when unemployment insurance is not an appropriate source of funding to meet the needs of apprentices.
- State law could be adjusted so a higher percentage of earnings are “disregarded” for claimants who are working part-time while claiming benefits. This adjustment would allow claimants working part-time to receive more benefits. Such a change would need to be applied to all claimants, not just apprentices.

# Background

## Bill overview

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During the 2023 legislative session, the Legislature passed, and the governor signed, Substitute House Bill (SHB) 1458.<sup>1</sup> This bill requires Employment Security to convene a workgroup to identify and address legal and procedural barriers to timely receiving benefits faced by eligible claimants participating in apprenticeship programs. The bill specifies that the work group must include representatives of apprenticeship programs, Employment Security staff and other appropriate stakeholders.

The bill also requires Employment Security to submit a report with findings and recommendations. This report must include a status update on applicable administrative efforts to reduce procedural barriers identified by the workgroup. The report must be submitted to the governor and appropriate committees of the Legislature by December 1, 2023.

## Stakeholder meetings

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Beginning on July 27, 2023, Employment Security held meetings with stakeholders. These stakeholders included union hall representatives, apprentices, and apprentice training programs agents and representatives. Staff provided a demonstration that walked participants through the process of opening and filing a claim for benefits. The demonstration also addressed unemployment insurance eligibility requirements and included a question-and-answer session.

During a listening session, registered apprenticeship program representatives discussed challenges faced by apprentices when claiming benefits. Staff held one-on-one interviews with apprentices to discuss their experiences with the unemployment insurance system.

The workgroup met regularly to discuss:

- Issues and challenges faced by apprentices when claiming benefits.
- Challenges faced by worker advocates when assisting apprentices with claiming benefits.

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<sup>1</sup> [SHB 1458, Laws of 2023, ch. 30, ss. 1-2.](#)

- Possible solutions to the identified challenges.

## Apprentice interviews

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Employment Security staff held one-on-one interviews with apprentices to discuss barriers and difficulties apprentices face in applying for and obtaining unemployment insurance benefits. Staff worked with registered apprenticeship program representatives to identify a set of apprentices who:

- Had experience with the unemployment insurance system;
- Were at different levels in their apprenticeship training; and
- Worked in a variety of trades.

The individuals were selected for interviews to gather information from a wide-ranging group with representative experiences. Staff completed telephone interviews with 21 apprentices. Each interview lasted 20 to 30 minutes.

The apprentices interviewed had different levels of experience with the unemployment insurance system. Each apprentice had tried to file for benefits at least once and some apprentices had tried to file up to 12 times. The apprentices came from different trades, including cement masons and plasterers, operating engineers, carpenters, and ironworkers. They were at different points in their apprenticeship programs, including new apprentices and those with multiple years of experience.

Two interviews were completed in Spanish and 19 interviews were completed in English.

Apprentices were asked about the following topics:

- Background information.
  - Example questions: How did you get started in your program? What were you doing before? Did you complete a pre-apprenticeship program?
- Experience trying to claim unemployment insurance benefits.
  - Example questions: How many times have you tried to apply? Have you been successful? Was the process easy? Why or why not?
- Tasks they had to complete to obtain unemployment insurance benefits.
  - Example questions: What did you think of the application? The weekly claim? Have you ever had to provide more information? What kind of information?
- What has worked and what has not worked during the claims process.

- Example questions: What's one thing you dislike about claiming benefits? Is there anything that you liked or that worked?

The themes that emerged from these interviews are incorporated into the challenges and solutions sections of this report.

## Unemployment insurance basics

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State unemployment insurance programs compensate people who lose work through no fault of their own.<sup>2</sup> Unemployment insurance is funded through regular contributions from employers to be drawn on by claimants after the loss of a job.

Unemployment insurance is a critical safety net for unemployed workers. It allows them to continue paying bills and supporting their families—and, by extension, their local economy—until they find a new job. Because unemployment insurance provides economic stability, it is vital not only to individuals, but also to families, businesses and the broader economy.

### Eligibility basics

Generally, to be eligible for unemployment insurance, claimants must show they:

- **Have a significant and recent “attachment to the labor market.”** This means they worked enough that losing their job or work has a significant economic impact. Requirements vary by state, but under existing Washington state law, claimants must have worked at least 680 hours within either:
  - Four of the previous five quarters before filing for unemployment, or
  - Within the last four completed calendar quarters.
- **Are “unemployed” during the week in which they claim benefits.**
- **Became unemployed “through no fault of their own.”** This means they neither voluntarily quit without good cause, nor were they discharged for work-related misconduct.
- **Are actively trying to return to work.** While receiving unemployment benefits, claimants must display their willingness to return to work. They must show they are able to work, are available for work and are actively seeking work. Claimants may not refuse an offer of suitable work without good cause and still collect unemployment benefits.

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<sup>2</sup> [RCW 50.01.010](#).

## Filing a claim

To file a claim, a claimant must first set up a SecureAccess Washington (SAW) account. After setting up a SAW account, the claimant can create an eServices account with Employment Security. Through their eServices account, a claimant can apply for benefits and file weekly claims. A claimant may also apply for benefits and file weekly claims by telephone.

To apply for benefits, the claimant needs to provide information about their employment and wages for the past 18 months. This information includes employer name(s), address(es), phone number(s), and start and end dates of employment. The claimant must also indicate the nature of their job separation—if they were fired, quit or were laid off—and answer questions about the reason for their job separation. Depending on the claimant's answers, more information may be needed. Unless the claimant was laid off due to a lack of work, Employment Security will gather additional information about the job separation to determine whether the claimant qualifies for benefits. After the initial determination is made, the claimant will need to file weekly claims for benefits each week that they are not working or that they are working reduced hours. When filing weekly claims, the claimant will be required to answer questions regarding their availability for work and their job-search activities to ensure that they continue to be eligible for benefits.

Employment Security may set an issue on an initial or weekly claim, depending on the information a claimant provides. That issue would need to go through the adjudication process to be resolved. This means that the information indicates that the claimant may not be eligible for benefits and Employment Security needs to get more information before determining if the claim should be approved.

For example, a claimant may state that they quit work to attend school. Employment Security would need to get more information from the claimant about the school they were attending. If Employment Security determined they were in an approved training course, the claimant may be eligible for benefits. If the claimant was in an academic program, they likely would not be eligible.<sup>3</sup>

When an issue is set on a claim, Employment Security will contact the claimant—using the contact information the claimant provided when setting up their account—to get more information. If a claimant or an employer does not respond to Employment Security's requests, Employment Security will make a determination based on the available information.

Adjudicating an issue on a claim sometimes involves gathering information from multiple sources and providing opportunities for rebuttal from the parties involved. This process can

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<sup>3</sup> See [RCW 50.20.095](#).



take several weeks. A claimant cannot receive an initial benefit payment until adjudication is complete and Employment Security has determined that the claimant qualifies for benefits.

## Waiting week

All claimants must serve a waiting week before receiving benefits. The first week that a claimant claims and is eligible for benefits will be the waiting week. The claimant will not receive benefits for that week. If a claimant begins claiming again within the same benefit year,<sup>4</sup> the claimant will not have to serve a second waiting week. However, if the claimant begins claiming benefits during a subsequent benefit year, the claimant will have to serve another waiting week for their new claim.

The purpose of the waiting week is to provide Employment Security with time to investigate the claim and perform fact-finding to ensure that the claimant is qualified and eligible for benefits. Also, as explained further below, the waiting week is necessary for Employment Security to receive certain payments into the Unemployment Insurance Trust Fund (trust fund)<sup>5</sup> from the federal government.

## Weekly benefit amount

A claimant's weekly benefit amount is the amount of benefits they are eligible to get for each week they file a claim. A claimant's weekly benefit amount is based on the claimant's wages during their base year.<sup>6</sup> A claimant's base year is either:

- The first four of the last five completed calendar quarters, or
- The last four completed calendar quarters immediately preceding the first day of the individual's benefit year.<sup>7</sup>

## Funding basics

Generally, there are two types of taxes that fund unemployment insurance: federal and state unemployment taxes.

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<sup>4</sup> A benefit year is the fifty-two consecutive week period beginning with the first day of the calendar week in which the claimant files an application for benefits. See [RCW 50.04.030](#).

<sup>5</sup> The trust fund is a separate, special state fund that consists of employer contributions and federal reimbursements, among other sources of funding. It is used to pay unemployment insurance benefits to claimants. See [RCW 50.16.010](#).

<sup>6</sup> [RCW 50.20.120](#).

<sup>7</sup> [RCW 50.04.020](#).

## Federal unemployment tax

Businesses pay this tax to the U.S. Treasury. The U.S. Department of Labor (USDOL) provides a portion of these funds to states for administration of their unemployment insurance programs.

## State unemployment tax

Businesses pay this tax and Employment Security deposits these payments into the state's trust fund, which can only be used to pay unemployment benefits.

There are three factors that determine a business's unemployment tax rates:

- Amount of remuneration paid to workers;
- Amount of unemployment benefits paid to workers; and
- Annual social tax.

## Amount of remuneration paid to workers

Businesses report this to Employment Security on a quarterly basis. Employment Security also uses this variable to determine the amount of benefits eligible workers may receive when they file an unemployment claim.

## Amount of unemployment benefits paid to businesses' workers

The more unemployment insurance benefits a business's workers receive, the higher that business's unemployment tax is going to be. Known as the "experience rating," it is intended to encourage worker retention.

## Annual social tax

Employment Security assigns businesses a "graduated social tax" based on their experience rating. The social tax accounts for benefit payments the state cannot recover through experience taxes. All Washington businesses share this expense, which includes both a flat and graduated tax. Employment Security calculates the flat social tax every year using a formula that balances benefits paid, taxes paid and the trust fund's balance. A business's graduated rate is based on that flat tax.

## Special legal provisions for apprentices

In general terms, an apprentice is an individual participating in an approved apprenticeship program. An apprenticeship program is an approved training program that may teach a

participant skills in a new field or provide supplemental instruction required for the person's job.

An apprentice is often required to attend classroom training, called related supplemental instruction, to maintain their employment in a given trade and to progress in their field. Apprenticeship training is often also required to maintain union membership. Apprentices may be required to leave work to attend training, as the trainings are often full-time for one or more weeks.

Apprentices may qualify for unemployment insurance benefits when out of work to attend approved apprenticeship training. Also, they would not be required to search for work to be eligible for those benefits.

Training agents and apprenticeship employers must undergo an approval process to become an approved apprenticeship program for unemployment insurance purposes. The Washington State Apprenticeship Training Council (WSATC) handles the approval process. The Washington State Department of Labor & Industries (L&I) maintains a list of approved apprenticeship and pre-apprenticeship programs.<sup>8</sup> However, not all programs listed on L&I's website are considered approved programs for unemployment insurance purposes. Except for the Construction Industry Training Council of Washington's (CITC) electrical apprenticeship program, Employment Security-approved apprenticeship programs are affiliated with trade unions.

## Leaving work

Employment Security may consider claimants to have good cause to voluntarily leave work if they quit other employment to enter approved apprenticeship programs.<sup>9</sup>

To qualify, a claimant must:

- Have been accepted into, and be entering, a WSATC-approved apprenticeship program;
- Have a confirmed start date for related supplemental instruction before leaving work;
- Continue in employment for as long as was reasonably consistent with whatever arrangements were necessary to begin the related supplemental instruction; and
- Be entering the classroom portion of their apprenticeship training.<sup>10</sup>

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<sup>8</sup> <https://secure.lni.wa.gov/arts-public/#/program-search>.

<sup>9</sup> [RCW 50.20.050\(2\)\(b\)\(xi\)](#).

<sup>10</sup> [WAC 192-150-160](#).

The claimant will not be eligible for benefits until the week prior to the week the related supplemental instruction begins. Specifically, benefits are payable to apprentices beginning Sunday of the week prior to the week in which the claimant begins active participation in the apprenticeship program.<sup>11</sup>

## Availability for work

Claimants are normally required to be available for work to be eligible for benefits.

However, a claimant may be eligible for benefits without being available for work if they are participating in a training program approved by Employment Security.<sup>12</sup> Claimants are also not required to look for work when they are participating in an approved training program.<sup>13</sup>

Claimants who are members of full-referral unions will be considered to be available for work and looking for work if they are in good standing with their union and on the union's work list.<sup>14</sup> They also will not need to search for work to be eligible.

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<sup>11</sup> [RCW 50.20.050\(2\)\(b\)\(xi\)](#).

<sup>12</sup> See [RCW 50.20.043](#), [RCW 50.20.095](#), [RCW 50.20.118](#), [RCW 50.20.230](#), [RCW 50.20.240\(1\)\(b\)](#), [WAC 192-170-010](#), [WAC 192-180-005](#), [WAC 192-180-040](#), [WAC 192-200-005](#).

<sup>13</sup> Claimants who are in non-approved programs, such as CITC's non-electrical apprenticeship programs, may be eligible for benefits under Commissioner-approved training. This is a separate path to eligibility from apprenticeship training. [WAC 192-200-020](#). However, claimants who are attending school for scholastic instruction, such as high school or college, are generally not eligible for benefits. [RCW 50.20.095](#).

<sup>14</sup> A full-referral union is a union that does not allow its members to look for non-union work within the members' trade and requires members to get all their work through the union. Unemployed Worker Handbook 2018 at 56, available at <https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/Unemployment/ESD-Handbook-for-Unemployed-Workers.pdf>.

# Findings and recommendations

The workgroup identified several challenges and barriers faced by apprentices during the process of claiming benefits, as well as potential solutions for those challenges. In the following sections, the challenges are identified, solutions suggested by the workgroup are presented and any barriers to implementation are explored.

## Challenges and barriers identified

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### **Weekly benefit amount and time to first payment**

Apprenticeship training is required to both begin and continue in certain trade careers. Often, an individual leaves a low-wage job to enter apprenticeship training with the hope of improving their financial situation and career prospects.

Although that individual could qualify for unemployment insurance, their weekly benefit amount is based on their previous wages. Often, their weekly benefit amount would not provide enough funds for them to meet basic needs while in training.

Additionally, it can take four to six weeks for a claim to be processed and approved if issues—such as a job separation issue or a delay between a job separation and the start of training—are identified during the claims process. When there is an issue on their claim, an apprenticeship claimant may not receive their first benefit payment for one or more months while they are in training and, in many cases, not receiving any other income. During this time, the apprentice needs funds for daily living expenses that would allow them to continue in their training. Without the aid of unemployment insurance or other compensation, some apprentices drop out of training and return to work due to financial constraints during the required training periods.

This is a loss to the trades, which need more qualified workers, and to the apprentices, who are forced to forego long-term financial improvement by having to leave the training that would prepare them for better paying jobs.

### **Delays with restarting claims**

Individuals who must participate in periodic apprenticeship training to maintain their jobs may only need to claim benefits for a week or two at a time while they complete the required training. The claimant may work for weeks or months before another training is scheduled.

In those situations, the claimant may need to restart their claim when they become unemployed to attend training again. The restarted claim may not be processed and approved—and the individual may not receive benefits—until they have returned to work again. This can create concerns with the reliability of unemployment insurance benefits and become a deterrent to entering or staying in apprenticeship programs.

## Issues on new and previous claims

During the one-on-one interviews, most apprentices gave feedback that indicated they were required to resolve at least one or two issues before they were able to receive benefits. These issues tended to involve the nature of their job separation or school attendance.

When applying for benefits, an apprentice may choose between multiple options for their job separation—including quitting, being fired, being laid off or being temporarily out of work. An issue requiring adjudication may be set on their account depending on their choice, and adjudicating and resolving the issue may a month or more.

Employment Security may set an issue if the apprentice states they are attending school rather than participating in apprenticeship training. Generally, claimants who are attending school are not eligible for benefits because they are not considered to be able and available for work.<sup>15</sup> However, they may receive benefits if they establish they can be available for work while attending school.<sup>16</sup> The apprentice may also be required to provide additional information about their training, which can delay an eligibility determination.

Apprentices may claim unemployment insurance periodically over time. After they no longer need benefits, an apprentice may not understand that there could be issues with their claim that need to be addressed. They may continue to receive notifications from Employment Security regarding their account. If they receive such a notice, they would need to log into their eServices account to address a question or request for information. If they do not do so, the issue will remain unresolved and when the apprentice attempts to reopen the claim or to open a new claim, the previous issue will need to be resolved before the new claim can be approved.

When an issue arises, eServices will send an email to the apprentice letting them know that they have a notification and that they need to check their account. However, apprentices and union hall representatives noted that additional communication, such as text messages, could be helpful in these situations.

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<sup>15</sup> See [RCW 50.20.095](#).

<sup>16</sup> [WAC 192-200-055\(3\)\(c\)](#).

## **Pre-apprenticeship programs**

A claimant may qualify for benefits if they leave work to participate in a pre-apprenticeship program. A claimant participating in an approved apprenticeship program will be assigned an apprenticeship number associated with their union, but a claimant in a pre-apprenticeship will likely not be assigned an apprenticeship number until after completing the pre-apprenticeship program. Employment Security uses the apprenticeship number to verify the claimant's union hall membership and apprenticeship program participation.

If a claimant does not have an apprenticeship number yet, they may type "not applicable" into the box where they would enter the apprenticeship number. This helps move the claim through the process, but many claimants are not aware that this is an option. Additionally, not having an apprenticeship number to reference can slow down claim approval. Without an apprenticeship number to reference, Employment Security will have a more difficult time verifying the claimant's status as a pre-apprentice or apprentice as well as the claimant's union membership.

Depending on the pre-apprenticeship program, the pre-apprentice may need to apply for Commissioner-approved training rather than filing a claim as an eligible apprentice.

## **Job separations**

An employer may tell an apprentice that they are being laid off or fired so that they can attend their training program. In such circumstances, the apprentice would not select "quit" for their job separation when filing their claim. Employment Security's claims processing system will set an issue if a claimant selects that they were fired rather than that they quit to attend training. This issue would need to be adjudicated, which would delay approval of the claim and first payment.

Even if an apprentice selects the correct option on the application ("Temporarily out of work to attend mandatory apprenticeship training"), an issue will be set if there is a delay between the job separation and the beginning of their training. The claim may be denied depending on the length and nature of the delay.

During the one-on-one interviews, apprentices indicated that they were not always aware of how the manner and timing of their job separation impacted their eligibility for benefits. This lack of awareness may lead to situations where an apprentice assumes they should get benefits because they are in training, but they are denied benefits because of the nature of their job separation or because of the amount of time between the job separation and start of training.

## **Apprentices may find certain questions or issues confusing**

When filing a weekly claim, a claimant must answer certain questions about whether they are on standby, whether they are looking for work, and whether they are able to and available for work. Apprentices expressed confusion over whether they needed standby, which waives the job search requirement for benefits during a temporary layoff. They were also confused about why they were asked whether they were searching for work and whether they were able to and available for work.

## **Some tasks are more difficult than others when claiming benefits**

The application for benefits can be confusing, particularly for new claimants. However, apprentices generally found the weekly claim process to be straightforward. Apprentices who were asked by Employment Security to provide additional information generally felt that sending the information to Employment Security was easy. They usually completed such tasks online. Apprentices reported receiving requests for information, such as school information, ID verification, work search, availability and how they left their previous jobs.

Apprentices found that issues that arose during the claims process could be time-consuming and lengthy to resolve.

## **Apprentices continue to file weekly claims when they have returned to full-time work**

Unemployment insurance is not available to claimants who are working full-time. However, about one-third of the apprentices interviewed continue to file claims each week, even after they have returned to working full-time. The apprentices gave the following reasons for continuing to file weekly claims:

- It is easier to keep track of multiple jobs if they continue filing claims.
- Someone they know told them they must continue filing claims to keep their claim “active.”
- They believe if they continue to file claims, they will have smoother or faster access to unemployment insurance when it is needed again.



Claimants should only file weekly claims for the weeks they need benefits and should stop filing weekly claims when they return to work.<sup>17</sup> Claimants should reopen their claim when they are out of work again.

Employment Security may set an issue on a claimant's account if they file weekly claims when working full-time. The issue would require adjudication and could delay benefits the next time they are needed.

## **Apprentices get frustrated and may give up on claiming benefits**

As previously explained, apprentices often need to resolve issues on their claims before they receive unemployment insurance. Issue resolution can be a lengthy process and apprentices feel like money is not available when they need it.

Additionally, apprentices are usually attending full-time training or working. They have a difficult time accessing customer service because they are not able to contact Employment Security during business hours. Call wait times can be long, which also makes accessing customer service difficult. These issues can discourage apprentices from continuing with the claim process and they may forego benefits they would otherwise qualify for.

## **Proposed solutions**

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The workgroup considered several solutions and some are more viable than others. Here, the proposed solutions are presented along with assessments of the barriers, if any, to their implementation.

### **Provide training**

Employment Security can develop and offer apprentice-specific training on opening and filing weekly claims. This training could be a pre-recorded video, live training, a presentation or a handout. Training would be beneficial for both apprentices and trade organizations, such as union hall staff or registered apprenticeship program representatives. Training for apprenticeship programs, union hall staff and other trade organizations would help them provide accurate and pertinent information for apprentices. These advocates could then more

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<sup>17</sup> Unemployed Worker Handbook at 3, *available at* <https://esdor.chardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/Unemployment/ESD-Handbook-for-Unemployed-Workers.pdf>.

effectively help apprentices claim benefits and deal with common issues that arise in the benefit application process.

The training should address:

- Timing of applying for benefits and filing weekly claims.
- Completing an application, with focus on known areas of confusion, such as job separation, work search, standby and availability.
- Impact of base year wages and hours on the weekly benefit amount.
- Impact of the type of job separation on a claim.
- Impact on a claim of the separation's timing relative to the start of training.
- What to do when returning to work.
- What to do when benefits are needed again (reopening a claim or filing another claim).

#### Employment Security's response

Stakeholders found Employment Security's demonstration session beneficial. This presentation was recorded and provided to workgroup members after the session.

This presentation could be adapted into a training and made accessible to all interested apprentices and trade organizations. Employment Security can continue to work with workgroup members to design a training, or multiple trainings, for apprentices, union hall representatives and trade organizations. Such training would need to be updated over time. Developing, presenting and updating the training will require resources, such as funding and staff time.

## **Streamline the application process**

Stakeholders noted that it could be helpful for Employment Security to add an option to the application process. Apprentices could choose "participation in an apprenticeship program," rather than having to choose "quit," which then leads to a very general set of questions that may cause confusion. Adding a button or tab that allows the apprentice to select "participation in an apprenticeship program" as one of the first questions would streamline the claim filing process for apprentices. This change could help avoid issues being set on the claim due to a mistake during the application process.

#### Employment Security's response

Currently, Employment Security's system is designed to capture the broadest set of circumstances possible rather than including specific situations. This is because there are myriad specific situations that may apply to claimants. However, adding a button or tab that allows a claimant to identify as an apprentice early in the application process could help

achieve the goal of streamlining the claims process. It could also reduce confusion and the possibility of issues being set on a claim due to mistakes made by the claimant.

Employment Security's telephone and online claims systems would need technological changes to implement this solution. These changes would require additional funding and would need to be worked in among Employment Security's current technology priorities.

## **Provide a dedicated staff member for apprentice questions and create partnerships between Employment Security and apprentice advocate groups**

Stakeholders requested that Employment Security provide a separate call line or a dedicated staff member to take calls from apprentices to discuss issues that may arise with claims. Apprentices often express frustration that their claims issues could be easily resolved if they were able to talk to someone at Employment Security who specializes in their type of claims.

### *Employment Security's response*

Employment Security currently does not have adequate resources to have a staff member dedicated to fielding calls from apprentices. This may be an option in the future if resources allow. External apprenticeship advocates may partner with Employment Security to be effective in helping apprentices with their questions and concerns. For example, opportunities like the Unemployment Insurance Navigator Program<sup>18</sup> could be expanded. Apprenticeship advocate organizations could apply to receive funding from the program to further assist apprentices with filing claims and navigating the unemployment system.

## **Waive the waiting week for claimants in registered apprenticeship**

Advocates suggested waiving the waiting week for apprentice claimants. Currently, all claimants must serve a waiting week after filing a new claim for benefits before benefit payments begin. This suggestion's goals are to reduce how long a claimant waits for their first payment and to increase that payment's amount as it may include multiple weeks of benefits.

### *Employment Security's response*

Waiving the waiting week could the claimant more money in their first payment but, it would likely not reduce the time of first payment to the claimant. The same amount of fact-finding

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<sup>18</sup> The Unemployment Insurance Navigator Program is a grant program open to community organizations that assist claimants from underserved communities file unemployment claims and better understand the unemployment process. Federal funding for the grant program has been made available to Employment Security through the American Rescue Plan Act. See <https://esd.wa.gov/community>; and <https://www.whitehouse.gov/american-rescue-plan/>.

and due process is required whether the waiting week is in place or not. Reducing the time to first payment can be better achieved through streamlining processes and operational changes that better serve apprentice claimants rather than waiving the waiting week.

One barrier to implementing this recommendation is that Employment Security would lose certain reimbursement payments from the federal government. During weeks of high unemployment rates during severe recessions, extended benefits are triggered and become available to claimants. Extended benefits allow claimants to receive benefits beyond the end of their benefit year. If Employment Security requires a waiting week, the federal government will reimburse the state for the first week of extended benefits paid to all claimants.<sup>19</sup> If Employment Security waives the waiting week for any claimants, including apprentices, the federal government will not pay the first week of extended benefits for any claimants. This would be a substantial loss of funding.

For example, the state unemployment insurance trust fund was reimbursed more than \$18.5 million by the federal government for the first week of extended benefits paid between May 30, 2020, and September 11, 2021. That funding would have been lost if Employment Security did not require all claimants to serve a waiting week.

For states like Washington that require a waiting week, USDOL's requirement for timeliness of first payments to claimants is 21 days.<sup>20</sup> If Employment Security were to waive the waiting week, this timeline would be reduced to 14 days. During the time between a claim being filed and first payment, Employment Security conducts fact-finding on the claim and provides due process to the claimant and employer by allowing both sides to rebut evidence.

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<sup>19</sup> [Section 204\(a\)\(2\)](#) of the Federal-State Extended Unemployment Compensation Act of 1970 provides that:

*No payment shall be made to any State under this subsection in respect of compensation . . . (B) paid for the first week in an individual's eligibility period for which extended compensation or sharable regular compensation is paid, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment. . . .*

[20 CFR Section 615.14\(c\)](#) implements this requirement. It provides that:

*The Department shall make no payment" of the federal share of EB "for the first week in an individual's eligibility period" if "state law provides for the payment (at any time or under any circumstances) of regular compensation to any individual for the first week of unemployment in any such individual's benefit year . . ." (Emphasis added.) We note that, in the early 1980's when this federal sharing was first prohibited, the Department required several states to repay the federal government for EB amounts improperly charged as the federal share.*

<sup>20</sup> This time is counted as days following the end of the first compensable week. [20 C.F.R. § 640.5](#).

Currently, Employment Security's average time between a claim filed and first payment is 20 days. Therefore, it is unlikely that Employment Security would be able to both provide adequate due process and meet USDOL's timeliness requirements if the deadline for first payment was reduced to 14 days. USDOL requires that states meet promptness of first pay requirements for at least 87 percent of claims.<sup>21</sup>

## **Presume people who quit to enter apprenticeship are eligible for benefits or pay provisional benefits to apprentices**

Apprenticeship advocates also recommended Employment Security presume claimants are qualified and eligible for benefits if they are unemployed because they left employment to start apprenticeship training. Alternatively, Employment Security could pay provisional benefits to apprentices before their claims are approved.

### *Employment Security's response*

Under federal law, presuming eligibility or paying provisional benefits are not viable solutions to assist apprentices. Implementing this recommendation would cause the state to be out of compliance with federal requirements for unemployment insurance program administration.

States must administer their unemployment programs to ensure full payment of unemployment compensation "when due."<sup>22</sup> USDOL broadly considers this "when due" requirement as balancing the obligation to timely pay benefits when someone is eligible with *not* paying benefits when someone is ineligible.<sup>23</sup> To help address this issue, USDOL adopted a guidance document stating that a presumption of eligibility should exist on a continued claim series because the state has already determined the initial eligibility. However, "the presumption [of eligibility] may not be applied on an initial claim."<sup>24</sup> Additionally, federal regulations require that claimant availability must be determined on a week-by-week basis; it cannot be determined in advance.<sup>25</sup>

Further, to determine if a claimant is qualified to receive benefits due to the nature of their separation from work, federal regulations require states to obtain "evidentiary facts . . . as distinguished from ultimate facts or conclusions."<sup>26</sup> Employment Security cannot obtain

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<sup>21</sup> [20 C.F.R. § 640.5](#).

<sup>22</sup> [42 U.S.C. § 503\(a\)\(1\)](#), requiring states to administer their unemployment programs using such methods that are "reasonable calculate to insure full payment of unemployment compensation when due."

<sup>23</sup> [UIPL 16-21](#) (April 13, 2021).

<sup>24</sup> [UIPL 04-01](#) (Oct. 27, 2000).

<sup>25</sup> [20 C.F.R. §§ 604.3-604.5](#).

<sup>26</sup> [20 C.F.R. Part 602, Appendix A](#).

evidentiary facts before a quit takes place. The only evidence that would be available before the quit would be the claimant's intent; what happens could be different.

For example, a claimant could intend to quit to enter apprenticeship but could end up being fired from employment before quitting. The quit must have occurred for adequate fact-finding to take place. Additionally, “[f]ederal law limits the payment of [unemployment insurance] to periods in which an individual has experienced unemployment, that is, an actual reduction in hours worked.”<sup>27</sup> Therefore, Employment Security cannot pay unemployment insurance to a claimant before they become unemployed.

Additionally, a claimant could end up with an overpayment if Employment Security were to pay benefits before completing fact-finding to determine their eligibility but later discover they were not eligible. An overpayment of benefits means that the claimant must pay the benefits back to Employment Security. Therefore, this approach could have negative outcomes for claimants as well as causing federal conformity issues for Employment Security.

## **Pre-adjudicating a claim before the voluntary quit has occurred**

Stakeholders suggested a process that would allow a future apprentice to file a claim before they have quit their job to accelerate the approval process. In this scenario, the apprentice could apply for benefits before they quit their job. They could indicate their plan to quit and attend apprenticeship training, and Employment Security could review and adjudicate that claim before the quit occurs. This would allow the apprentice to be paid sooner relative to their actual date of quitting employment.

### **Employment Security's response**

Pre-approval or pre-adjudication would not meet federal quality control requirements. Specifically, as stated above, Employment Security must obtain “evidentiary facts . . . as distinguished from ultimate facts or conclusions.”<sup>28</sup> Employment Security would not be able to obtain evidentiary facts before a quit took place. Employment security could only predict what *could* happen. Circumstances could change between Employment Security receiving information about what the claimant plans to do and what occurs.

Additionally, “[f]ederal law limits the payment of [unemployment insurance] to periods in which an individual has experienced unemployment, that is, an actual reduction in hours worked.”<sup>29</sup> Therefore, Employment Security cannot pay unemployment insurance to a claimant before they have become unemployed. This option could also lead to a claimant having an

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<sup>27</sup> [UIPL No. 08-98](#) (Jan. 12, 1998).

<sup>28</sup> [20 C.F.R. Part 602, Appendix A.](#)

<sup>29</sup> [UIPL No. 08-98](#) (Jan. 12, 1998).

overpayment if Employment Security pre-adjudicated a claimant's eligibility only to discover later that the claimant was not actually eligible.

## **Accelerate application review and appeals for people who quit to enter apprenticeships**

Stakeholders suggested that Employment Security could accelerate review of applications filed by apprentices to reduce the amount of time the claimant waits for their first payment. This would involve identifying these apprenticeship-related claims and then putting them in a special queue for review ahead of other claims.

### *Employment Security's response*

Employment Security is obligated, as a state agency, to treat claimants fairly and equitably. If claims processing is accelerated for one group, it will be delayed for all other claimants. In addition to equity concerns, delaying other claimants' processing times raises concerns about paying benefits "when due" for non-apprentice claimants whose claims were de-prioritized.<sup>30</sup>

Additionally, a compressed timeline for fact-finding means less time for claimants and employers to respond to Employment Security's requests for information. A shorter timeline could lead to denial of benefits because information could not be gathered in the timeframe required. A compressed timeline for hearings may also have adverse consequences for claimants and employers because they will have less time to gather evidence and prepare for a hearing.

## **Create a guaranteed minimum weekly benefit amount**

Another suggestion brought up by stakeholders is to guarantee a certain minimum weekly benefit amount to apprentices. This could make up for the fact that they may be coming from low-wage jobs and may thus have lower weekly benefit amounts that do not cover their expenses while in training. Additionally, the suggestion is that these claimants should be guaranteed to be granted benefits because they are participating in apprenticeships.

### *Employment Security's response*

Under federal law, some claimants cannot receive a different minimum weekly benefit amount than other claimants. Implementing this suggested solution would cause Employment Security to be out of conformity with federal requirements and jeopardize federal unemployment insurance program funding. As discussed elsewhere, other sources of funds, such as grant

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<sup>30</sup> [42 U.S.C. § 503\(a\)\(1\)](#).

funding, may be more appropriate than unemployment insurance for bridging the financial gap faced by apprentices.

Unemployment insurance is intended “to compensate for wage loss resulting from unemployment due to lack of work, without regard to any means or needs test or criteria of entitlement having no reasonable relationship to ‘unemployment.’”<sup>31</sup> If Employment Security were to automatically grant benefits to apprentices, but not to other claimants—or provide apprentices with a different minimum weekly benefit amount than would be available to other claimants—those other, non-apprentice, claimants would be denied reasonable protection under the law.<sup>32</sup>

## **Not reducing apprenticeship claimants’ benefits for partial compensation or developing a program similar to SharedWork for apprentices**

Apprentices who work less than full-time hours due to training could claim partial benefits to offset the wages missed due to training. Stakeholders also suggested the development of a program for apprentices modeled on the existing SharedWork program.

### *Employment Security’s response*

#### *Partial benefits:*

Apprentices may claim benefits during weeks when they work hours that are less than full-time because they are attending training. Claimants who are working part-time are eligible for partial benefits.<sup>33</sup> State statute only partially deducts a claimant’s part-time wages from their weekly unemployment benefits. The purpose of this partial deduction is to encourage claimants to work part-time instead of remaining fully unemployed.

Specifically, the first \$5 a claimant earns and 25 percent of a claimant’s wages earned after the first \$5 are “disregarded.” They are not subtracted from a claimant’s weekly benefit amount.<sup>34</sup> This means a claimant who works part-time during the week takes home more pay from their combined wages and unemployment benefits than a claimant who does not work and only collects benefits.

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<sup>31</sup> [UIPL No. 787](#) (1964).

<sup>32</sup> [Id.](#)

<sup>33</sup> [RCW 50.20.130](#); *see also*

<https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/Unemployment/ESD-earnings-deduction-chart.pdf>

<sup>34</sup> [RCW 50.20.130\(2\)](#).



Federal law allows states to change the amount of part-time wages that are “disregarded,” or not subtracted from a claimant’s weekly benefit amount.<sup>35</sup> State law could be adjusted so a higher percentage of earnings are “disregarded” and claimants who work part-time receive more benefits. It should be noted this change would need to be applied universally to all claimants and not just to apprentices specifically.

Apprenticeship training programs that can restructure their training schedules may want to explore doing so to allow claimants to work part-time while in training and claim partial benefits.

*SharedWork model:*

SharedWork is a program that employers may choose to participate in that provides flexibility to retain employees at reduced hours. If an employer must operate with a reduced workforce, the employer may retain their employees, rather than implement layoffs, but offer each employee fewer hours.

Under the SharedWork program, employees are eligible for unemployment insurance to offset the reduced hours. Claimants under SharedWork are not required to look for other work but must be available for all work offered by their employer. Employers participating in the SharedWork program must certify to Employment Security that the total work hours reduced for each participating employee is in lieu of layoffs that would have resulted in the same number of reduced work hours.<sup>36</sup> The program is designed to avoid layoffs due to a lack of work.

The SharedWork program is governed by federal law. All state shared work programs must conform to federal requirements for the state to use state unemployment trust fund dollars to pay SharedWork costs and to receive federal reimbursement when such reimbursement is available.<sup>37</sup>

To qualify for SharedWork benefits, a claimant must be available for all work offered by the employer.<sup>38</sup> Apprentices would likely not meet the requirements for SharedWork because they are not available for work while in training. Employers whose employees must leave work to participate in training would not be eligible for participation in the SharedWork program because the employers are not reducing their hours due to lack of work.

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<sup>35</sup> See U.S. Department of Labor, *Comparison of State Unemployment Insurance Laws*, Chapter 5, Table 3-8 (2022), available at <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2022/complete.pdf>.

<sup>36</sup> See <https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/about-employees/shared-work/shared-work-employer-requirements.pdf>.

<sup>37</sup> [UJPL 10-20, Change 2](#) (May 25, 2021); see [26 U.S.C. § 3306\(v\)](#).

<sup>38</sup> [26 U.S.C § 3306\(v\)\(5\)](#).

The SharedWork program provides a model that could be used to serve apprentices. However, the Legislature would need to approve and fund a state-level program to accommodate apprentices' unique circumstances. Additional funding to investigate technical and customer service solutions

If additional funding is available, a project team could further investigate how to simplify the issue-setting experience. Investigation could elicit ways to reduce the number of issues set or to simplify the process for setting and resolving issues. The team could also investigate how to identify apprentices more clearly in the application process and how to create a more streamlined process for these claimants.

The team could investigate how apprenticeship program support compares to support for other programs such as training benefits, Commissioner-approved training or SharedWork. This investigation could help determine whether additional funding is needed to establish a support team dedicated to apprentices.

#### Employment Security's response

This solution is viable depending on the availability of additional state and federal funding for Employment Security. This work could potentially benefit all claimants.

## **Apprentices can open an account or address issues ahead of time**

A claimant can set up their SAW account and connect it to Employment Security at any time in preparation for filing a claim. An apprentice who is reopening a previous claim, or filing a new claim after previously claiming benefits, can sign into their account to check for any outstanding issues and work with Employment Security on addressing those issues. The apprentice could get those issues resolved before claiming again, which would help prevent any delay with their new claim.

#### Employment Security's response

This solution is viable. However, its effectiveness would require educating apprentices and future apprentices on these options. They should be encouraged to be proactive in setting up their accounts, regularly checking their accounts and addressing any outstanding issues.

## **Grants or other funding to bridge the gap for apprentices**

Other options, such as a grant program or sources of funding other than unemployment insurance, could be developed to assist apprentices. Such funding would be especially helpful during the beginning of their apprenticeship training. Unemployment insurance is limited by federal requirements and the claims approval process and may not be the best source of

funding to bridge the financial gap faced by apprentices. Other sources of funding could be developed to provide a safety net for apprentices, especially those early in their training who are most at risk of dropping out of their apprenticeship programs due to a lack of income.

#### Employment Security's response

Union halls and training organizations currently offer funding assistance as available. Additional funding may need to rely on programs developed and funded by the state Legislature or the federal government.

# Status update on applicable administrative efforts to reduce procedural barriers

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In conclusion and in accordance with SHB 1458 reporting requirements, the status of applicable administrative efforts to reduce procedural barriers as identified by the workgroup are as follows:

- Employment Security developed a walk-through on claiming unemployment insurance benefits. It was presented to stakeholders during one of the workgroup meetings and was provided to stakeholders after the meeting. This presentation can be further developed with stakeholder input to help meet the training needs of apprentices and apprentice advocate groups. However, additional resources and funding will be necessary to develop training that can be widely presented and distributed. Additional resources and funding would also help Employment Security and apprentice advocate groups more effectively partner and guide to apprentices through the claims process.
- Training and advocacy can help apprentices to be proactive in getting ready to file a claim, regularly checking their accounts even when not claiming benefits and resolving issues as they arise in order to reduce delays in receiving benefits.
- The workgroup identified ways to streamline the benefit application process. Additional funding and resources are needed to investigate and implement necessary technological changes to Employment Security's systems.
- Additional sources of funding, such as state and federal grants, can be developed to help fill gaps where unemployment insurance is not an appropriate source of funding to meet the needs of apprentices.
- The workgroup identified a potential subject for amendments to state law. State law could be amended to allow a higher percentage of earnings to be "disregarded" for claimants who are working part-time while claiming benefits. This change would allow apprentices who are working part-time while attending training to receive more benefits. However, such a change would need to apply to all claimants, not just apprentices.