

A photograph showing the silhouettes of several people sitting around a table in a meeting room, with a bright light source creating a lens flare effect. The image is overlaid on a dark blue background.

Unemployment Insurance ADVISORY COMMITTEE



Employment Security Department
WASHINGTON STATE

October 28, 2020

UI Work Search Requirements



**Employment
Security
Department**
WASHINGTON STATE

Unemployment Insurance Advisory Committee Presentation

October 28, 2020

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Employment Security Department

Agenda



- Review work search and improper payment issues pre-COVID pandemic.
- Review legal structure for work search requirements in Washington.
- Discuss potential adjustments to legal structure to better serve employers and job seekers.

Goal



- Under [Proclamation 20-30](#) work search requirements are currently suspended.
- Identify potential amendment to state work search requirements embedded in statute ([RCW 50.20.240](#)) to create the flexibility needed to reinstate robust work search activities.

UI Improper Payments-Work Search



- Federal law requires states to keep improper payments for unemployment insurance under 10%.
 - Rate measured by very small sample through federal claims audits – less than one quarter of one percent of claims, on average.
- Prior to 2019, Washington's multi-year average was about 14%; spiking to over 19% in 2018.
- Work Search errors account for about two-thirds of Washington's total improper payments

ESD Addressing Improper Payments



- Centering approach on reemployment, using UI as one tool toward that enterprise-wide goal.
- “Guiding Claimants to Reemployment” – agency-wide effort to address root causes, change processes and behaviors, and otherwise bring down improper payment rate while still serving our customers in the best way possible.
- USDOL and NASWA Integrity Center provided technical assistance.

NASWA Integrity Center State Intensive Services



- NASWA providing independent, confidential assistance to states at USDOL's request.
- Full review of WA UI processes to address improper payments:
 - State processes and procedures
 - Training and skill development needs
 - Behavioral inquiry review
 - Policies
 - Technology

Key Policy Recommendations



- **Washington Administrative Code:** Update and simplify the work search requirements and Job Service Review (JSR) requirements outlined in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC).
- **Work Search Policy:** Broaden Work Search policy to allow more acceptable work search activities; aligning policy with reemployment objectives and updating the phrase “job contact” to be more reflective of work search acceptable activities.

NASWA Work Search Recommendation



We recommend the ESD work with stakeholders to remove work search requirement details and JSR [Job Search Review] program details from the RCW and WAC. The number of acceptable work searches, the type of acceptable work search activities, reporting requirements, and record keeping details should be maintained at the policy level, allowing for maximum flexibility to adopt new reemployment strategies and adapt to changing economic conditions. Policy changes are easier to propose and implement than statutory or regulatory changes that have additional barriers.

NASWA Work Search Recommendation



In evaluating states with the lowest improper payment rates attributable to work search errors, there is a repeated theme of providing a general declaration of the requirement in statute or regulation and a general expectation that reports be provided when requested from the agency. By defining items at the policy level, such as the number of acceptable work searches, the type of acceptable work search activities, reporting requirements, and record keeping details, states are provided with the flexibility needed to adopt evolving reemployment strategies and adapt to changing economic conditions within their staffing and technological constraints. This encourages an ongoing dialogue and collaboration with stakeholder groups and WorkSource partners.

COVID-19 Response: Work Search



- As the pandemic shutdown the state, ESD did not have the flexibility to adequately adjust work search requirements to the new reality. This led to Governor Proclamation 20-30 suspending work search requirements.
- Proclamation 20-30 continues to be extended in part because the workforce system does not have the capacity to suddenly absorb a reversion to that requirement for every claimant in our system to make the required contacts.
- If the statute were less prescriptive, the system could manage a gradual reentry by rule and policy adjustments to match available capacity in the state.

Work Search Statutes in Other States



[Texas Labor Code](#), Title 4, Subtitle A. Texas Unemployment Compensation Act, Sec. 207.021. Benefit Eligibility Conditions: “[...] (5) **is actively seeking work in accordance with rules adopted by the commission; [...]**”

[Massachusetts](#) General Laws, Part I, Title XXI, Chapter 151A, Section 24: Eligibility for Benefits: “[...] (b) **Be capable of, available, and actively seeking work in his usual occupation or any other occupation for which he is reasonably fitted; [...]**”

RCW 50.20.010: Benefit eligibility conditions.



RCW 50.20.010

- (1)(c)(i) To be available for work, an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and **must be actively seeking work pursuant to customary trade practices and through other methods** when so directed by the commissioner or the commissioner's agents.

RCW 50.20.240: Job Search Monitoring



(1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, the employment security department **shall implement a job search monitoring program.** The department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the requirements of this section. The department may use interactive voice technology and other electronic means to ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

RCW 50.20.240: Job Search Monitoring



(b) Except for those individuals with employer attachment or union referral, individuals complying with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, individuals who qualify for unemployment compensation under *RCW [50.20.050](#) (1)(b)(iv) or (2)(b)(iv), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, **must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed. The evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week.**

RCW 50.20.240: Job Search Monitoring



(c) In developing the requirements for the job search monitoring program, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

(2) **An individual who fails to comply** fully with the requirements for actively seeking work under RCW [50.20.010](#) **shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW [50.20.190](#).**

WAC 192-180-010

Job Search Requirements



[WAC 192-180-010](#)

(3) What are my weekly job search requirements?

(a) At a minimum, you must: (i) Make job search contacts with at least three employers each week; or (ii) Participate in three approved in-person job search activities through the WorkSource office or the equivalent public employment agency in the state in which you reside, or any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

(c) If you are a member of a referral union you must be registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see [WAC 192-210-120](#)). Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

What Counts As A Job Search Contact



WAC 192-180-010 (4)

What is a "job search contact"? A job search contact is a contact with an employer to inquire about or apply for a job. You must use job search methods that are customary for your occupation and labor market area including, but not limited to, in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100 and 50.20.110) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department decides the contact is designed in whole or in part to avoid meeting the job search requirements. Simply posting your resume online (for example, Simplyhired.com or Craigslist) does not constitute a job search contact for purposes of this section; in addition to posting your resume, an application or contact with an employer for a job must be submitted to count as one of the required weekly job search contacts.

Potential Changes: Job Search Contact



What is a "job search contact"? A job search contact is one of the following activities:

- (a) Contacting an employer to inquire about a job, unless you know the employer is not hiring;
- (b) Submitting an application for a job with an employer, unless you know the employer is not hiring;
- (c) Taking an exam required as part of the application process for a new job;
- (d) Interviewing for a job;
- (e) Taking a civil service exam;
- (f) Adding a resume to an online job board;
- (g) Creating a user profile on a professional networking site, and make your profile searchable;
- (h) Participating in work-related networking events, such as a job fair, and make one contact with at least one employer;
- (i) Registering for work with a temporary work agency, placement firm, or educational institution with job placement offices; and
- (j) Other approved activities [listed on the department's website](#) at the time the weekly claim was filed.

In-person Job Search Activities



WAC 192-180-010 (5)

What is an "in-person job search activity"? This is an activity provided or monitored through the WorkSource office or the equivalent public employment agency in the state in which you reside that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided or monitored by WorkSource staff or other affiliated agencies and approved by the local WorkSource office. For claimants residing in Washington state, an in-person job search activity must be documented in the department's computer system to qualify. For interstate claimants, the activity must be documented by the equivalent public employment agency in the state in which you reside.

Potential Changes: Job Search Activities



(a) An in-person job search activity is an activity provided or monitored through the WorkSource office or the equivalent public employment agency in the state in which you reside that will assist you in your reemployment efforts. It includes:

- (i) Job search workshops;
- (ii) Training classes;
- (iii) Creating a reemployment plan;
- (iv) Creating an application cover letter or resume;
- (v) Obtaining and using labor market and career information;
- (vi) Participating in Reemployment Services and Eligibility Assessment (RESEA) activities;
- (vii) Participating in skills assessment for occupational matching;
- (viii) Establishing an online job matching account; or
- (ix) Other facilitated services provided or monitored by WorkSource staff or other affiliated agencies and [listed on the department's website](#) at the time the weekly claim was filed.

Potential Changes: Job Search Activities



(b) For claimants residing in Washington state, an in-person job search activity must be documented in the department's computer system to qualify. For interstate claimants, the activity must be documented by the equivalent public employment agency in the state in which you reside.

(c) You do not need to physically visit a WorkSource office or the equivalent public employment agency in the state in which you reside in order for the activity to count as an in-person job search activity. Job search activities that are provided or monitored remotely or virtually also count as a valid in-person job search activity.

Legal Structure Amendments



Areas for Discussion

- The Employment Security Department shall implement a job search monitoring program.
- Claimants must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed.
- The evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week.