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Improving the Worksharing System To Absorb Employment Shocks

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Contents

Introduction and summary

Between March and September 2020, roughly 22 million Americans lost their jobs due to the COVID-19 pandemic; many others lost work hours and income.[1] As a result, an estimated 14.6 million people likely lost health insurance at some point during this period.[2] Based on the current pace of economic recovery[3] and the preexisting inequities in the labor market that the pandemic has exacerbated, it is likely that elevated unemployment will persist for years.[4] Faced with stark budget projections and congressional inaction on state and local aid, many states and localities are experiencing financial strains due to a shrinking tax base and budget deadlines, which have led to more layoffs and cuts in vital services.[5] Improving the crucial unemployment insurance (UI) system to meet ongoing need will require a number of policy reforms.[6] One important reform will be improvements to worksharing programs, which are an underutilized and lesser known component of the UI system.[7]

With states and localities forced to cut employees and services, the coronavirus pandemic and resulting economic crisis have shone a light on the need for additional investments to help stem the tide of layoffs and ensure that Americans who lose work are able to get by. The United States' safety net system—especially its unemployment insurance system—falls far short of what people need in normal circumstances.[8] Although weekly UI benefits unquestionably kept individuals and the national economy afloat through the spring and summer of 2020 thanks to pandemic-specific program expansions, state systems were administratively and technologically overburdened.

Worksharing is advantageous for workers, employers, and the economy writ large. Often called short-time compensation (STC), worksharing is an alternative to the traditional UI process in which employers reduce the hours of certain employees instead of laying off a portion of the workforce. Workers involved in worksharing programs retain a stronger connection to employers and benefits, while employers retain experienced employees and reduce training costs after the economy bounces back. Evidence suggests that layoffs are rarely optimal for businesses and that employers should think strategically about how to plan staff changes when necessary.[9]

Worksharing can be a structured and thoughtful way to approach changes, ensuring better—and potentially more equitable—planning and greater voice for workers. There are larger-scale economic advantages as well: When the federal government fully funds worksharing—as it is doing until December 31 of this year under the Coronavirus Aid, Relief, and Economic Security (CARES) Act—UI costs accrue to the federal government instead of states, and it is less constrained in budgeting and borrowing than states are. Moreover, afforded greater work stability and predictability, maintenance of income, and attachment to employment, individuals' spending is less likely to contract, and the overall economy reaps the benefits.

Defining worksharing

Workers who are given reduced hours through worksharing receive prorated unemployment benefits to supplement their paycheck.[10] Unlike the traditional UI system, worksharing allows workers to remain formally attached to their employer and provides employers with workforce stability. When worksharing is combined with other tools to boost worker power, it can be an effective tool in softening the effects of external shocks to the labor market.

Benefits for workers

- Workers remain attached to employment benefits such as health insurance.
- Depending on benefit and supplement levels, weekly take-home pay may not decrease.

Benefits for employers

- Employers avoid the costs of rehiring and retraining employees in the future.
- Worksharing offers the potential for payroll savings.
- Worksharing efforts may align with social distancing or maximum capacity requirements during the pandemic.
- Flexible staffing arrangements are more adaptable to business demands.

Benefits for state governments

- Worksharing leads to more financial stability among state residents than widespread unemployment, helping to maintain the overall state economy.
- Worksharing prevents layoffs among state employees.
- When worksharing is used under the CARES Act, the federal government pays for UI benefits instead of state governments.

Facing a 20 percent decrease in business, an employer might decide to lay off 20 percent of its workers or 20 percent of workers in a particular division or job function. If instead the employer participates in worksharing, however, all or some of these employees could be retained—for four days of work per week rather than five. These employees would receive four days' worth of wages each week and would then receive the UI equivalent of up to 20 percent of the total benefits available to a person who previously made the same amount in wages but who is unemployed for a full week.

This could save employers more money than would be possible with blunt layoffs. For example, laying off the least-tenured employees may result in less cost savings than including higher-paid employees in worksharing.[11]

Worksharing programs have been successfully implemented in a number of other countries during the COVID-19 pandemic, most notably in Germany. According to the U.S. Department of Labor (DOL), as of April 2020, at least 26 states had operational worksharing programs.[12] These programs are often underutilized, however. Worksharing's lack of uptake and popularity in the United States can be attributed to a variety of factors, including burdensome administrative hurdles and a lack of community and employer familiarity and outreach.[13] But it is notable that even in periods of full federal funding for benefits received through worksharing, uptake has been minimal: Federal financial incentive has been insufficient for states to fully promote programs.

Now is an opportune moment for the DOL to provide guidance to state employment agencies and employers to implement effective worksharing programs. The DOL should equip these programs with the tools needed to promote worksharing and conduct outreach campaigns to the public. Federal funding for worksharing was expanded under the CARES Act in spring 2020; without extension, it will expire at the end of December 2020.[14]

This report outlines worksharing's history around the world and the current state of worksharing in the United States; discusses why both public and private employers should consider adopting worksharing programs; and provides recommendations for what the DOL, state employment agencies, and employers can do to encourage an uptake in worksharing in preparation for any future economic downturns.

A history of worksharing in the United States and abroad

Worksharing has long been used in the international context. Germany, Japan, Canada, and Italy have all been long-time users of worksharing programs. Indeed, Germany has utilized the scheme—known there as "Kurzarbeit,"[15] in which companies apply for worksharing participation and benefits—on a mass scale since its time as the Weimar Republic in the early 1900s.[16] Since World War I, use of worksharing in Germany has fluctuated in accordance with periods of unemployment. Most notably, 1.5 million employees participated in the robust program during the global financial crisis in the mid-2000s.[17] During that period, worksharing acted in concert with several other labor policies to preclude a significant, long-lasting unemployment crisis. Indeed, Germany's high level of unionization, high coverage under collective bargaining agreements, generous unemployment insurance benefits, and enactment of a prompt economic stimulus have been vital contributing factors to the country's economic resilience. It is also notable that Germany increases the percentage of lost pay covered under a worksharing program if an employee has a child—part of an effort to further bolster economic stability for families.

During the coronavirus-induced economic crisis, Germany has administered one of the largest worksharing programs in the world.[18] This past March, nearly half a million companies applied for worksharing benefits, a dramatic increase from the monthly average of 1,300 companies that applied in 2019.[19] As of early June, around 10 million German workers were actively participating in the program.[20] This stands in stark contrast to the peak of 451,485 American workers who received worksharing benefits the week ending July 25, 2020, despite millions having filed for UI since the pandemic began.[21] Comparisons between Germany and the United States indicate that, accounting for population size and the number of jobs lost, worksharing saves the government money on unemployment benefits.[22]

Yet worksharing as an unemployment tool is less widely known in the United States, although informal variations of the practice have been around since the 1920s. To save jobs during the Great Depression, President Herbert Hoover promoted a voluntary form of worksharing that encouraged private employers to reduce employees' hours rather than lay them off, but that did not include government compensation to supplement the reduction in hours as modern worksharing does.[23] In 1933, in parallel with President Franklin D. Roosevelt's New Deal initiatives, the National Industrial Recovery Act created the National Recovery Administration, which allowed private businesses to adopt certain codes, including minimum wages and a reduction of weekly hours. This predated the legal requirements of the Fair Labor Standards Act of 1938.[24] This form of worksharing was used by the Roosevelt administration in an attempt to distribute work more evenly among workers, thus addressing the dual issue of too-long work weeks for some workers and lack of jobs for others. These early applications of worksharing occurred without the existence of an unemployment insurance system and focused primarily on specific industries and private business. The use of worksharing in this context was a recovery strategy, rather than a strategy to prevent an economic downturn.

During the post-World War II era, as the availability of work expanded again and employment increased, worksharing use phased out. Since then, like other employment mechanisms, uptake of worksharing has followed economic cycles. It was not until 1978 that worksharing became a more formal labor policy, when California became the first state to sanction a statewide worksharing program.[25] In 1983, the DOL published an unemployment insurance program letter (UIPL) providing states with guidance and legislative language for use in creating worksharing programs.[26] In 1992, worksharing became a permanent part of the federal UI law through the Unemployment Compensation Amendments.[27] However, the legislation left out key features, such as a federal definition of worksharing and federal reimbursement of state programs; these things were rectified under the Layoff Prevention Act of 2012.[28]

Worksharing also played a role in mitigating layoffs during the Great Recession. According to the National Employment Law Project, more than 500,000 jobs in the United States were saved from 2008 to 2013 in states that used worksharing.[29] Despite only 17 states having worksharing programs in 2009, federal emphasis—and the opportunity to see best practices from other states during the Great Recession and subsequent economic recovery—eventually led other states without operational programs to adopt worksharing in the period from 2009 to 2020. At the same time, many programs became nonoperational during that decade, with worksharing nominally existing in some state UI systems but, for all intents and purposes, becoming inactive.[30] Perhaps a slower-moving economic downturn would have provided sufficient time for additional states to reinvigorate dormant programs in 2020, but the deluge of UI claims in March through April took precedence for state agencies.

In 2009, the year President Barack Obama took office, the DOL issued 24 UIPLs, only 10 of which remain active.[31] These letters included guidance for new federal compensation programs, expansion of benefits, and new tax credits in an attempt to alleviate some of the economic burden of the Great Recession.[32]

As discussed above, in 2012, the Layoff Prevention Act established a formal definition of worksharing and delineated federal reimbursement for any state with congruent worksharing laws.[33] Significantly, the act also allocated money for grants for which states can apply to promote their worksharing programs.[34]

A moment of opportunity for worksharing

During the COVID-19 pandemic, with businesses laying off workers and states facing significant budget shortfalls, worksharing could serve as a valuable instrument for workers, employers, and states. It would allow employees to retain connections to their jobs, along with any accompanying benefits, and it would allow employers to preserve their ability to make payroll for the months or years of recovery.

Worksharing strategies have several advantages over traditional unemployment insurance usage. Under current worksharing programs, employees' typical schedules are reduced between 10 and 60 percent, depending on the state, and they become eligible to collect prorated state unemployment benefits. Through the end of July 2020, employees participating in worksharing programs could also collect the $600-per-week federal supplement that was created under the CARES Act—the Federal Pandemic Unemployment Compensation (FPUC). The federal government fully reimburses state unemployment benefits when worksharing is taking place. Conceivably—and particularly likely when there is an additional federal supplemental benefit such as FPUC—some employers could save money on payroll without employees losing income when UI benefits are factored in.[35] Since the FPUC boost expired at the end of July, calculations of how advantageous worksharing would be for employers and employees have changed significantly. However, worksharing would still be preferable to permanent job loss, and there is hope that Congress will act to boost benefits eventually. Moreover, worksharing could be relevant the next time Congress supplements state benefits.

Even beyond wages, worksharing has the benefit of allowing employees to continue receiving health care coverage and accruing paid leave and retirement benefits while providing a reliable attachment to employment. Because health insurance is so often tied to employment in the United States, job losses often lead to significant drops in health insurance coverage. By the summer of 2020, as many as 14.6 million Americans, including dependents and other family members, were estimated to have lost employer-sponsored health insurance.[36] This is particularly dangerous for individual and public health during a pandemic. While Congress could have provided emergency coverage to many unemployed people under Medicaid, a retention of employer-sponsored benefits through worksharing may be a better stopgap strategy, as it could be implemented quickly.[37]

In addition, many states currently have requirements regarding maximum room occupancy or building capacity, as well as social distancing guidance, that limit the number of people who can be on a work site at one time.[38] Businesses may also be dealing with a shift in staffing needs; for example, fewer servers may be needed in restaurants that have not introduced indoor dining, but more hosts may be needed to distribute takeout. Worksharing could allow employers to change their staffing or shift strategies to protect the health of employees and customers, as well as to respond to changes in demand levels.

Even in economic downturns that do not involve constraints on in-person work for safety reasons, worksharing has advantages for businesses and employers. Hiring and rehiring costs are minimized; licenses and training do not have the opportunity to lapse; and employers are able to ramp up production or availability more quickly when economic conditions improve.

Public employers can also benefit from worksharing programs. For example, states facing potential layoffs or furloughs among their employees due to revenue shortfalls should consider worksharing.[39] It would save states money on their payrolls—clearly not at the full scale of state and local need, but possibly at a large enough scale to postpone or avoid layoffs.[40] Several states and municipalities have begun pursuing worksharing for their employees. Retaining public employees is in the broader public's interest because it keeps state and local services more stable during a crisis, and public employers often face cuts on a delay from the overall economic picture because of tax revenue declines. A slow return to pre-downturn public employment levels could be evened out by greater use of worksharing. However, public employers should carefully consider financial ramifications for their employees and should exercise caution around using employee cutbacks as a financial strategy. This type of austerity is unlikely to meet states' full budgetary needs, and decisions should be made in tandem with employees and employee unions. For example, Rhode Island worked with employees and employee unions during the beginning of the pandemic to formulate a worksharing structure in which certain state employees were eligible to volunteer for furlough for a limited period of time as a cost-saving measure for the state government.[41]

In some cases, because the full value of federal worksharing funds is passed along to reimbursing employers, public sector employers can save more money by using worksharing to reduce hours than by using regular UI to make full-week layoffs or reduce hours.

Along with the benefits that worksharing offers states, employers, and employees, it can help address broader social problems such as the high levels of job loss and long-term unemployment that disproportionately affect Black workers,[42] who often fall into the "last hired, first fired" category.[43] If employees participate in worksharing, employers may be able to avoid layoffs of less-tenured employees. This could preclude those workers from having to look for new work in a difficult job market.

The current status of worksharing in the United States

In theory, a number of states already have worksharing programs in place. As of April 2020, 26 states—covering almost 70 percent of the U.S. workforce—had worksharing programs, although reports from states indicate that some of these may not currently be up and running.[44] But as of the week ending October 17, 2020—the date for which data were available by November 5—only 178,444 people nationwide were claiming UI benefits via worksharing.[45] This is only 0.83 percent of all UI claimants.[46] Worksharing, then, is clearly underutilized—and states, public and private employers, and employees are all losing out as a result.[47]

Spotlight state: Michigan

Michigan provides a good example of how worksharing can save states and employers money while providing workers with job security. At the start of the pandemic, the Michigan Department of Labor and Unemployment Insurance Agency actively took steps to increase their outreach and promotion of the state's worksharing program. Having a highly visible leader, Gov. Gretchen Whitmer (D), in full support of worksharing helped inform employers that the option existed.

State employees in Michigan took two temporary layoff days per pay period, from May 17 until July 25, saving the state $80 million in wages. Participating employees had access to partial unemployment benefits and the $600-per-week FPUC.[48] More senior managers did not participate in worksharing but took one layoff day every other pay period, resulting in an approximately 5 percent reduction in pay; and the governor took a 10 percent pay cut. Employees on the front lines of the COVID-19 response did not participate.

Based on a review of the government websites of the 27 states that had worksharing programs in April and May 2020, including Washington, D.C., most states issued press releases or online resources but lacked community outreach and significant engagement with employers. Employers located in some of the states indicate that the worksharing program exists in name only. Only a few states showed evidence of more active outreach or engagement early in the pandemic.[49] Even with significant financial incentive to transfer state UI costs to the federal government, states did not do enough to publicize and facilitate worksharing.

In late April, Virginia became the first state to take advantage of CARES Act funding intended to incentivize the creation of new worksharing programs.[50] Virginia first created a worksharing program in 2014, but it had since lapsed. Work is underway at the state level to create an operational program by January 1, 2021. States such as New Jersey have followed suit to create a new worksharing program at the state level.[51] Washington state,[52] Maryland,[53] and Connecticut[54] have each announced expansions of their worksharing programs after seeing a notable participation increase since the pandemic began.

Policy recommendations

Given the numerous benefits that worksharing provides, the federal government, states, and employers—including states in their role as public employers—should take action promptly to lessen the economic burden that workers face if laid off. Moreover, they should cautiously prepare for any future pandemics or crises that may lead to aggressive economic downturns. More capacity or funding for outreach at the state level is unlikely, so the federal government must step in, going beyond financial incentives to provide additional capacity and program improvement.

Focus on worksharing at the federal level

Despite consensus from economists that worksharing is a useful economic tool, the previous and current presidential administrations have not done enough to grow worksharing programs to the level needed. Program improvements are necessary so that the unemployment insurance system functions as a fully effective safety net during any sort of sudden economic shift.[55] Worksharing could help employers retain staff in moments of sudden crisis.

A significant federal focus on publicizing worksharing could have dramatic effects on its uptake in 2020. Anecdotal reports from many state-level UI administrators during the pandemic suggest that employer participation in worksharing is largely based on relationships and outreach—for which administrators had little time this spring due to capacity constraints and technological crises in UI systems. Publicizing instances of media organizations[56] and high-profile employers, which are likely to get local media coverage, that are pursuing worksharing may be efficient avenues for outreach if they inspire other employers to pursue worksharing as well. In addition, outreach via partnerships with unions and grassroots workers' organizations could increase worker voice in conversations around staffing during periods of economic uncertainty, as well as complement a greater voice for labor in the UI structure.[57]

Shifting funding and administration to the federal government

Reforms to the worksharing program can also build capacity and responsibility for UI administration at the federal and state levels. During the pandemic-induced economic emergency, worksharing funding has shifted to the federal government; this funding structure should be made permanent for worksharing. This would alleviate some of the burden on state UI funds, which is particularly important because states are required to balance their budgets in ways that the federal government is not. Federal responsibility for worksharing administration could help address a significant barrier to uptake: the difficulty of navigating multiple state UI systems for multistate employers that want to pursue worksharing for their employees. Having the DOL take responsibility for the administration of worksharing could simplify the employer application process through dedicated staff who are well-versed in designing worksharing systems. It could also lead to more robust data collection and analysis of worksharing use, program strengths, and program weaknesses. A shift to DOL administration of worksharing could help open the door for further federal engagement in the UI system—a system that varies widely by state, reinforcing disparities by race and region.[58]

Take action to ensure the future of worksharing

In addition, improvements to UI access and benefit levels should be permanently tied to economic conditions so that benefit levels cannot be held hostage in congressional negotiations. Future legislation could also mandate the creation of worksharing programs in all U.S. states and territories.

In addition, the practice of "experience rating" could be altered to incentivize worksharing. Experience rating requires employers to pay higher taxes in the future if their former employees claim UI in the present. This practice could be permanently eliminated for worksharing or temporarily paused when unemployment rates rise overall, rise in a certain sector or geographic area, or rise for a particular demographic group. In other words, experience rating could be taken off the table in moments when worksharing is likely being used to avoid layoffs.

Current worksharing proposals in Congress

Recently, two bills have been introduced in the U.S. Senate that pertain to worksharing: the Workforce Retention Act of 2020,[59] introduced by Sen. Jack Reed (D-RI), and the Rebuilding Main Street Act,[60] presented by Sen. Chris Van Hollen (D-MD). These two pieces of legislation show a way forward by providing states a model for adopting a worksharing program.

The Workforce Retention Act splits the responsibilities of worksharing implementation, outreach, and assessment among the DOL, state UI agencies, and any type of employer participating in the program. The bill extends a key component of the CARES Act by calling for 100 percent of worksharing benefits to be reimbursed by the federal government on a permanent basis. Additionally, eligibility for worksharing benefits would be expanded under this bill, with any employer with at least four employees allowed to participate. The act also calls on the DOL to not only provide states with guidance but also conduct a study by 2025 assessing the implementation and aptitude of each state's worksharing program. Additionally, the bill directs the U.S. secretary of labor to establish standards of timeliness for states approving employer worksharing plans. These provisions would create a measure of federal accountability that is currently missing in the use of worksharing benefits. To ensure that a state's worksharing program is functioning efficiently and that states are being proactive, the bill requires states to deliver annual reports to the DOL on program usage, while state UI agencies would be directed to analyze layoff and industry trends to help identify employers who may be at risk for future layoffs. The latter provision encourages states to be proactive about preventing job losses by conducting worksharing outreach and education, for which there is currently a void.[61]

The Rebuilding Main Street Act, which is also being considered in the U.S. House of Representatives,[62] would provide grants to employers who use worksharing when they have additional financial needs. These grants would cover fixed costs and improve alignments between worksharing and Paycheck Protection Program loans by preventing reduced loan forgiveness if an employer's payroll deduction occurs via worksharing.[63]

Conclusion

With the country continuing to face the worst unemployment crisis since the Great Depression[64] and unemployment insurance claims consistently high more than seven months into the COVID-19 pandemic, states and businesses should be actively looking to worksharing as a way to prevent high levels of job loss and long-term unemployment. Utilizing worksharing would make the United States and its economy more resilient by keeping workers tied to their jobs and benefits; providing employers with workforce stability; granting states more flexibility with their budgets; and, overall, ensuring lower long-term unemployment.

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