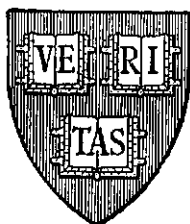


Availability for Work

A Study in Unemployment Compensation

BY

RALPH ALTMAN



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TO THE MEMORY OF MY FATHER

ABRAM ALTMAN

1874-1947

A cedar fell in Lebanon

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FOREWORD

IN ORDER to draw unemployment compensation, among other qualifications, a worker must be able to work and be available for work. These simple phrases have no ready counterpart in the complexities of the labor market. Mr. Altman has explored the full range of problems involved in determining "availability for work." This study has the merit that it cuts across a variety of disciplines and fields of interest. The book will be helpful alike to labor economists, to union and management representatives confronted with practical questions under unemployment compensation statutes, to vocational counselors and social workers considering the problems of the many millions of our population who are sometimes in and at other times outside the labor force and who are frequently near the borderline, to referees making decisions on appeal cases for benefits, to lawyers and courts concerned with the litigation of precedent-making cases, to federal and state officials and their staffs charged with policy making in the administration of all social insurance programs, and to thoughtful persons interested in the perplexing problems of giving meaning to "full employment."

In the haste to outline programs to achieve or to guarantee "high-level" or "full" employment, economists have generally overlooked many ambiguities in the objective. What wages may a man reject and be counted as unemployed rather than entirely outside the labor force? What shifts in occupation or job are required of a worker to remain within the labor force? What hours may a housewife refuse to work and still be counted in the labor market? Mr. Altman's study of the administration of unemployment compensation has the merit of compelling attention to these thorny questions. While the discussion is in the context of the unemployment compensation system, analogous questions are relevant to the measurement of the labor force.

The mobility of labor has been a neglected phase of the labor market. Particularly under conditions of high-level employment, the administration of the "availability for work" provisions of unemployment compensation is apt to have a significant effect upon

the patterns of movement not alone within the labor market but also on shifts between the labor force and outside the job market. This study has well surveyed the administrative standards for availability which are presumed to affect mobility. It is not altogether clear, however, what the net effect of the unemployment compensation system has been upon short term and long term mobility of the labor force. Herein lies an area of further research.

Mr. Altman is keenly aware of both the difficulties of administering the "availability for work" provisions and the possibilities of misuse of the unemployment compensation system by seasonal employees and those who have really left the labor force.

As the unemployment compensation system is extended in coverage and as benefits are increased, the problems of "availability" are certain to receive increasing attention. Mr. Altman's comprehensive survey of the field should be widely used.

JOHN T. DUNLOP

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AUTHOR'S PREFACE

THE UNITED STATES has now had an unemployment compensation system for a dozen years. Fifty-one American jurisdictions — the forty-eight states, Alaska, the District of Columbia, and Hawaii — each have their own unemployment compensation laws. Every one of these laws stipulates that unemployed workers may not draw benefits unless they are able to work and available for work. The meaning of that statutory provision is the subject of this book.

On its face, availability for work may appear to be an obvious concept which requires little or no explanation. Actual operations, however, have revealed to state unemployment compensation agencies how difficult it is to apply the availability requirement. In fact, the availability provisions of the American unemployment benefit laws have already given rise to almost four hundred thousand appeals to referees, boards of review, and the courts, each of these appeals raising the question: Is the claimant available for work? In about a third of the appeals, the appellate tribunals have reversed or substantially modified the previous decision and reached a different conclusion as to the claimant's availability.

Despite the numerous administrative decisions on the subject and a growing body of judicial opinion, the literature on the availability for work requirement is scant. A handful of articles have appeared, in law journals and in the *Social Security Bulletin*, dealing mostly with specific subdivisions of the total subject. Although referees and other workers in unemployment compensation have often expressed the need for a full-scale study of availability for work, no such study has previously appeared. This book has been prepared in order to help fill that gap.

Primarily, this volume is intended for the use of students and workers in the social insurance field. Because they are constantly confronted with actual cases in which a knowledge of previous trends of decision is important, attorneys, referees, and others who deal with the interpretation of unemployment compensation laws have a need for citations of cases in point. This thought has prompted me to include extensive notes to Chapters VI–XIII

which refer such users to appropriate decisions. Aside from the needs of this group, I have also attempted to take broader considerations of labor-force measurement and social policy into account in my presentation.

While not hesitating to suggest modifications and changes in the laws and their administration, throughout the book I have assumed that the present basic structure of the American unemployment compensation system will continue. Among the principal characteristics of that system are the following: (1) A pay-roll tax is the principal source of the unemployment benefit fund. (2) Benefit eligibility is confined to those unemployed workers who have, within a specified past period, worked in employment that is subject to the unemployment compensation tax. (3) The weekly benefit amount depends upon previous earnings. (4) The number of weeks of unemployment during a benefit year for which benefits will be paid is limited. (5) Unemployed workers are required to be capable of working and available for work as a condition of benefit eligibility.

Arguments against the desirability of retaining some or all of these features may readily be advanced. It may be contended that unemployment benefits should come out of general revenues or that the general treasury should be an additional contributor to the benefit fund. Sentiment is strong, among unemployment compensation personnel, to divide the tax between workers and employers. Making previous employment a condition of benefit eligibility obviously bars new labor-market entrants from benefits. Gearing the weekly benefit amount to prior earnings has been attacked as socially illogical. The movement to include additional benefit allowances based upon the number of the claimant's dependents takes that argument into account. Limited duration of benefit status has been criticized as limited protection. The push has been constant to increase the maximum weeks of benefits allowable in the benefit year — from sixteen weeks in most states in 1937 to twenty or more in most states in 1949. Conceivably an unemployment compensation system could be devised that would dispense with the availability requirement for some or all claimants. The effect might be similar to a dismissal wage plan. Despite such objections and substitute proposals, the basic features I have outlined seem relatively stable. Consequently I have sought to keep my suggestions for change within the framework of our existing system.

I am glad to have the opportunity to acknowledge here the many debts I have contracted in writing this book. It would be impossible to list all the referees and members of unemployment compensation boards of review and commissions. Their decisions constitute the base upon which this book rests. Their pioneer work in developing the meaning of the unemployment compensation laws, case by case, without benefit of guide or precedent, deserves the thanks of the entire nation. My colleagues in the Bureau of Employment Security have given generously of their time and thought. Abraham Abramowitz, Joseph H. Barker, Hermon E. Eisler, Olga S. Halsey, Stuart Morrison, and Helen Tippy — all members of the bureau staff — have each read part or all of the manuscript and made helpful suggestions. Professors John T. Dunlop and Sumner H. Slichter, both of the Harvard faculty, aided immeasurably with careful, searching criticism. I am indebted to John and Harriet Armstrong of the Industrial Relations Library in the Littauer Center of Public Administration for many kindnesses.

Some of the typing was done by Sylvia Hecht and Kate Krupen, but most of that burden was assumed by my wife, Jeanne, who meanwhile continued, with great patience and fortitude, to perform a second miracle of bearing with me.

I wish to thank the Wertheim Committee of Harvard University for the grant which made it financially possible for me to devote myself, for an extended period, to this work. My thanks are due also to the Bureau of Employment Security for permitting me to take a prolonged leave of absence in order to work on this book.

Although I am a member of the staff of the Bureau of Employment Security, the opinions and conclusions expressed in this book are my own and do not necessarily represent the views of the Bureau of Employment Security.

RALPH ALTMAN

