



Volatile Job Schedules and Access to Public Benefits

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Introduction

For many low-wage workers, Monday-through-Friday, nine-to-five jobs are a thing of the past. Instead, volatile schedules are the norm, especially in retail, restaurant, and other service jobs. Among early career workers (ages 26 to 32) in hourly jobs, more than 40 percent receive one week or less advance notice of their job schedules.¹ Half of these workers have no input into their schedules and three-quarters experience fluctuations in the number of hours they work, with hours varying by more than eight hours per week on average. Many workers receive less than three days' notice.²

These schedules make it difficult for workers to secure child care, hold a second job, or attend job training. *Scheduling* instability also leads to *income* instability. When workers do not know whether they will work 10 hours or 40 hours in a given week, it is nearly impossible for them to budget and to make ends meet. A recent study found that nearly one-third of Americans experience considerable fluctuations in their income; of these individuals, more than 40 percent attribute the ups and downs to irregular work schedules.³

When combined with low wages and low income, workers with volatile schedules often find themselves in need of income support from public benefits programs, such as cash assistance under Temporary Assistance for Needy Families (TANF) and nutritional assistance under the Supplemental Nutrition Assistance Program (SNAP). These safety net programs are crucial to reducing poverty. One recent estimate found that government tax and transfer policies reduced the share of people who were poor by almost half (from 29 percent to 16 percent) in 2012.⁴ Safety net programs also support work, especially for low-income parents, providing crucial stability that helps them advance in their jobs and ensures their children's healthy development. For millions, the safety net has made work pay and lifted families out of poverty.⁵

Ironically, the very job scheduling issues that contribute to many workers' financial insecurity and consequent need for public benefits often create obstacles to *accessing* these benefits.⁶ Some of these programs require recipients to work a certain number of hours. As a result, when workers are scheduled for fewer hours, their wages *and* their public benefits go down.⁷ Temporary increases in work hours can also be cause for concern. Workers who fail to report increased earnings—even if temporary—can be denied benefits or even charged with fraud. Workers who report increased earnings may have their benefits cut or become ineligible. This is often referred to as the “benefits cliff.” Yet many workers whose income increases as a result of additional hours may quickly lose those hours, making them eligible for benefits once again. The reapplication process can

be cumbersome and time consuming, contributing to a process known as “churn” that is as costly for administrative agencies as it is a hardship for families.

Volatile job schedules also exacerbate logistical problems that hinder benefits access. From trying to schedule an appointment with a caseworker to attempting to project one’s income to calculate benefits, workers with volatile job schedules find that the path to benefit eligibility is anything but straightforward. Rules related to quitting one’s job and technological flaws in the system used to verify income may also present challenges for these workers.

Despite playing an essential role in lifting American workers out of poverty when their employers fail to pay them adequately and treat them fairly, the social safety net needs to be updated to keep up with the changing nature of work. In particular, states’ rules and practices are in need of revisions. Workers and advocates can help drive this change; already, their advocacy for stronger workplace protections and collective bargaining rights has effectively increased public support for state and local policy solutions to volatile scheduling. Further advocacy can also drive change at the level of public benefits rules.

This brief examines the ways that volatile schedules complicate and constrain access to public benefits, including those provided under TANF, SNAP, the Child Care Development Fund (CCDF), and Medicaid.⁸ (See Appendix A for brief descriptions of each program.) Many of these programs vary considerably across states—both in law and in practice. Because no source tracks state choices in all of these areas, the brief does not offer a comprehensive, state-by-state analysis. Instead, after providing overviews of how scheduling issues may affect benefit access within the context of several categories of rules, requirements, and circumstances, we pose a series of questions to help advocates, policymakers, and researchers assess the effects of their state’s practices on recipients and applicants employed in jobs with volatile schedules. We also offer some broad best practices to consider across program areas.

Volatile Schedules: Background

Common scheduling challenges include: little advance notice of shifts; fluctuations in shifts from day to day or week to week; highly variable hours per week; being sent home from work early or called in at the last moment; split shifts (nonconsecutive hours); working late-night closing shifts followed by early morning opening shifts (“clopening”); and inadequate hours. These practices are symptomatic of the “just-in-time” approach to scheduling. Under this model, employers modify employee schedules in response to even small changes in sales and demand without regard for the impact on workers, often using scheduling systems that automatically limit hours. However, scheduling software itself is not inherently unfair to workers; when combined with human intervention, it can improve business success *and* worker wellbeing.⁹ There is evidence that this collaborative approach is more profitable for businesses than scheduling practices that don’t take workers’ needs into account.¹⁰

New and emerging research demonstrates that volatile schedules are remarkably common. According to an analysis of the National Longitudinal Study of Youth, more than 40 percent of early career hourly-workers (ages 26 to 32) receive one week or less advance notice of their job schedules. Half of these workers have no input into their schedules and three-quarters experience fluctuations in the number of hours they work, with hours varying by more than eight hours per week on average.¹¹ According to a study of workers of all ages, about 17 percent of the workforce experiences unstable work shift schedules, which includes irregular, on-call, split, and rotating shifts.¹² Parents of young children—the primary recipients of a number of benefits programs—are among those most likely to experience volatile job schedules. Nearly 70 percent of mothers and 80 percent of fathers of children 12 or younger who work in hourly jobs receive hours that fluctuate by up to 40 percent.¹³

Erratic schedules have severe effects on workers’ lives. Workers struggle to arrange child care, transportation, medical appointments, and higher education; they experience fatigue and stress that affects family life and health outcomes; and they struggle to stay afloat financially.¹⁴ To curb these devastating effects, a growing movement of workers and advocates across the country is fighting to pass new labor standards that would require employers to improve scheduling practices. At the federal level, the Schedules that Work Act (S. 1772/H.R. 3071) would give all employees at firms with more than 15 people the right to request scheduling accommodations; it would also provide employees in certain categories a right to *receive* those accommodations unless employers have bona fide business reasons to refuse. For workers at firms with more than 15 people in the retail, restaurant, and building cleaning industries, the bill includes additional provisions that require advance notice of schedules and compensation for last-minute changes, on-call work, and split shifts, as well as minimum pay for showing up to work (even if they are sent home early).¹⁵ Legislation to address schedule volatility has also been introduced in 12 states, as well as several local jurisdictions, over the past year. In 2015,

San Francisco passed the Retail Workers Bill of Rights, which will improve scheduling for workers employed by large chain retailers in the City and County of San Francisco.¹⁶

Low-wage Workers and Public Benefits

About 4 in 10 children (more than 31 million) are poor or near poor, with racial and ethnic minorities disproportionately affected.¹⁷ These children live in families that have difficulty paying the rent or mortgage and keeping food on the table.¹⁸ Yet more than half of poor and near-poor children live with a full-time, year-round worker.¹⁹ Despite the many challenges they face, three-quarters of poor and near-poor single mothers with very young children are participants in the labor force.²⁰ Among those who work less than full time, more than 6.5 million people would like more hours but aren't able to get them.²¹ An additional 1.9 million people are working two part-time jobs.²² Despite a lot of hard work, many low-wage workers simply can't make ends meet.

Safety net programs, particularly SNAP, Medicaid, and refundable tax credits, have come to play a critical role in filling the gap between what low-wage jobs provide and what families need to get by. In 2013, Medicaid served 57.4 million individuals²³ and SNAP supported 47.6 million individuals.²⁴ The Earned Income Tax Credit (EITC) benefitted 28 million individuals.²⁵ Programs with capped funding reached smaller shares of needy families. TANF served 1.75 million families, while child care subsidies through the Child Care and Development Fund reached 1.46 million children.²⁶ Overall, government tax and transfer policies reduced the share of people who were poor by almost half in 2012.²⁷

Many of those who benefit from these programs are in working families. In some cases, such as the EITC or child care, eligibility is directly linked to employment. Most parents receiving child care subsidies are working; 94 percent are either employed or in education or training programs.²⁸ But even in other programs, participants have significant work attachment. For example, among all SNAP households with at least one working-age adult not receiving disability benefits, more than half have a member who works while receiving SNAP. Additionally, more than 80 percent work either in the year prior to or in the year following SNAP receipt. The rates are even higher for SNAP households with children.²⁹ These figures reflect deliberate actions by federal and states governments over the past two decades to increase support for low-income working families who are unable to make ends meet based on wages and benefits earned.

Public Benefits Challenges for Workers with Volatile Job Schedules

Although the programs covered in this brief vary widely along legal, policy, and practice lines, a common set of challenges related to volatile job schedules emerges for affected applicants and recipients. Below, we consider how certain broad requirements or rules affect each program's capacity to serve workers with volatile schedules. Since these programs are administered by states, with the exception of certain federally mandated requirements, policies and practices may vary widely depending on geographic location. The specifics of how states apply these requirements will shape workers' experiences.

Work requirements

Since workers with volatile schedules experience instability and unpredictability in their hours, programs that impose work hour requirements pose a particular challenge. Work requirements vary significantly between programs.

- States must engage a specified share of TANF recipients in a limited set of countable activities for a minimum number of hours per week. To be counted toward the federal work participation rate (WPR), recipients must participate a minimum of 20 to 35 hours per week depending on family composition.³⁰ States have the option of setting their work requirements higher; some have elected to do so, partly because they anticipate variation in weekly hours among recipients. There is no partial credit for recipients who fall just short of the federal standard; consequently, states want a cushion to increase the likelihood of receiving credit.
- SNAP recipients who are not working 30 hours per week (or are otherwise exempt due to age, caregiving responsibilities, disability, or student status) may be required to participate in employment and training activities.³¹ (Earning a weekly average of 30 hours per week times the minimum wage is deemed equivalent to working 30 hours.) So-called “able-bodied adults without dependents” (“ABAWDS”) can only access SNAP for three months out of a three year-period *unless* they are working or participating in a qualified work activity for a minimum of 20 hours per week.³² SNAP regulations specify that recipients who are subject to this time limit must report any instances in which their work hours fall below 20 hours per week, averaged across a month, even if they would otherwise not need to report fluctuations in income.³³
- To qualify for child care assistance under CCDF, parents must participate in a work or education activity or have a child in need of protective services. States each establish their own policies defining acceptable work activities for the purposes of eligibility. Those activities may include employment, job search, job training, or educational programs. The federal child care assistance law prescribes no

minimum work requirement. Nearly half of states have policies requiring parents to work a minimum number of hours.³⁴ Of those that have set such a minimum, more than half require 20 hours of work or more per week for assistance with full-time care; some require 30 hours of work. States with these higher minimums for full-time care sometimes also establish a lower minimum threshold for part-time care.³⁵ However, within the context of federal parameters, states have the freedom to modify their rules to ensure that programs meant to support work are in sync with the challenges of today's low-wage labor market.

As Susan Lambert and Julia Henly note in their study of early career workers, work-hour requirements are based on an assumption that workers have control over how many hours they work (meaning those that work less are doing so because of a preference or personal barriers).³⁶ Yet existing data and workers' stories show this is far from true. While eligibility rules for TANF do not require recipients to find jobs that pay a certain wage or offer specific benefits, they do require a minimum number of hours. This requirement does not reflect the realities of low-wage work.³⁷

During the Great Recession, high unemployment meant that most states became eligible for—and took up—state-wide waivers for the ABAWD time limit. Unemployed individuals in these states were not automatically cut off from SNAP if they reached their 3-month time limit and were unable to obtain 20 hours a week of employment or training. However, with the economic recovery, many states are no longer eligible for—or are no longer taking up—the state-wide waivers, despite the ongoing struggles many recipients face in finding sufficient hours of work. In 2015, 31 of the 37 states eligible for state-wide waivers took them up.³⁸ According to an analysis by the Center on Budget and Policy Priorities, roughly one million people are likely to lose SNAP benefits in 2016 as state-wide waivers expire.³⁹ While the population expected to lose benefits is often completely unemployed, it will also include those who are underemployed (either on an ongoing basis or as a result of volatile scheduling practices that cause hours to fluctuate).

Work requirements may also present unique challenges for recipients who have part-time jobs or jobs with fluctuating schedules. For example, TANF recipients with part-time jobs may not be offered enough hours of work to meet their state's participation requirements. To meet the requirement, they may be assigned to “job club” (a formal job search group). However, these assignments may not account for workers' job schedules, especially those that fluctuate. In some cases, recipients may need to choose between missing work and attending their mandated “work activities.”⁴⁰

The reasons for and ways in which workers *leave* jobs may also affect their eligibility for benefits. Workers who “voluntarily quit” their jobs are typically disqualified from receiving certain benefits, including SNAP and TANF.⁴¹ Yet “quitting” may be the only option for workers with erratic schedules that cause untenable conflicts between their work obligations and their family, school, and health obligations. Some states may have

exceptions for quits deemed to be motivated by “good cause,” but TANF rules vary from state to state. For SNAP, by statute, good cause for leaving employment may include discrimination by an employer, unreasonable work conditions (such as working without pay), or acceptance or enrollment in a recognized education or training program on at least half-time basis.⁴²

Fluctuating benefit amounts

Means-tested programs are designed to provide more support to those with the greatest need; therefore, they adjust benefit levels in response to changes in recipients’ earnings or other income. However, when benefits are adjusted in response to even small or temporary changes in income, the resulting fluctuations in benefit levels—on top of fluctuating earnings—can make it difficult for workers and their families to maintain stability in all aspects of their lives. It may be particularly challenging for families that experience a lag between when earnings change and when they are reflected in benefit amounts. High earnings one month may result in lower benefits the following month. Meanwhile, workers’ earnings may well drop and return to previous levels, leaving them struggling to make ends meet on the lower benefits. This can have severe, potentially long-lasting consequences. One report found that in families who experienced decreases in SNAP benefits, children were 70 percent more likely to experience developmental delays; 55 percent more likely to be food insecure; 36 percent more likely to be in poor health; and 12 percent more likely to be hospitalized.⁴³

As with work requirements, state policies and practices are critical in determining how volatile schedules will affect benefit levels. States and programs use different methods to calculate benefit amounts; some project earnings in advance of work (prospective budgeting), while some use actual earnings information to budget (retrospective budgeting). States also vary in their requirements regarding how frequently recipients must report income changes or what level of change warrants reporting (see the eligibility verification section below).

Many states now require SNAP recipients to report on their income and household circumstances only at defined intervals—typically every three to six months—unless household income rises above a threshold level. (Recipients who lose income may choose to report it sooner in order to have their benefits adjusted up.) However, other states require monthly reporting.⁴⁴ In addition, individuals subject to the SNAP time limits must report reductions in work hours below the 20-hour-per-week threshold.

In recent years, nearly all states have adopted “simplified reporting” processes for SNAP; these require recipients to submit information every six months. Under this system, households must only immediately report changes that push their income over 130 percent of the federal poverty level (FPL).

State policies regarding child care assistance sometimes require care hours to closely match parents’ work hours; as a result, children experience instability in their care arrangements as parents’ hours fluctuate.⁴⁵ Researchers have found that such instability is harmful to children’s development. In addition, parents in these

circumstances may find it difficult to identify quality child care providers that will accept their children. This is because in the unsubsidized child care market, families typically pay for care regardless of whether their children are present on a given day. (This is necessary for providers to maintain financial stability.) Even working parents who receive child care subsidies may have difficulty finding quality care. Their struggles with unstable, unpredictable schedules may discourage providers from accepting their children.

There are no federal rules mandating that states impose such requirements on work and care hours. The federal Office of Child Care has clarified that states need not authorize care based on the work, training, or educational schedule of parents. Furthermore, the recently reauthorized child care law specifically encourages states to support fixed costs of care and to use generally accepted payment practices in compensating care providers. Colorado provides one example of a state that does not impose restrictions on child care hours by tying them to parents' work hours. In 2014, it passed legislation prohibiting such rules.⁴⁶

Historically, the need to report changes in employment or other family statuses and to regularly recertify has led to fluctuations in benefit amounts and barriers to maintaining subsidies. In the past, many states required parents to report any changes to income and work schedules to state agencies as they occurred, both for the purposes of maintaining eligibility and to adjust required parent co-payments. For workers with variable schedules, frequent reporting requirements can be burdensome. These restrictive policies, imposed by states, are not federal requirements. States can minimize the changes that must be reported, simplify reporting, and minimize how often they act upon reported changes. State implementation of the new Child Care and Development Block Grant (CCDBG) law, which requires 12-month eligibility unless family income goes over the federal eligibility level (85 percent of state median income), is likely to reduce the burden of reporting requirements for families during their eligibility period.

The new CCDBG law also includes several other provisions that should limit benefit fluctuations and increase child care stability. These include a requirement that states not terminate child care assistance based on parental job loss or cessation of education and training unless they continue assistance for a period of at least three months, in order to provide time for job search. States are also required to demonstrate how they will take irregular fluctuations in parents' earnings into account when determining and redetermining eligibility.⁴⁷

Utah's Approach to Benefits for Workers with Volatile Schedules and Incomes

Utah takes a common-sense approach to calculating income and eligibility for workers with volatile schedules who receive public benefits. Many of the state's policies are designed to reduce barriers for these workers. Nevertheless, continued training and policy refinements are needed to ensure adequate access.

Utah's eligibility workers are trained to estimate recipients' prospective income for cash assistance, SNAP, and child care programs by averaging, anticipating, and/or annualizing income. While check stubs continue to be the gold standard for documenting income, they are not always indicative of expected earnings for the prospective eligibility period (typically 6 or 12 months). Agencies can use other methods to obtain income information, such as documents, collateral contacts, electronic data interface, and the professional judgment approach.⁴⁸

Agency staff may call an employer to inquire about a recipient's expected hours and potential for overtime. The professional-judgment approach allows an eligibility worker to estimate income in cases without check stubs and when collateral contact information may be minimal or unattainable. This subjective area, meant to allow for flexibility, highlights the importance of comprehensive agency training. Income estimates must be carefully narrated in the case file for case reviewers and auditing purposes.⁴⁹

Utah has increasingly relied on electronic data sources to obtain information pertinent to a recipient household's case. This serves several purposes, including: reducing the verification burden for families, who are focused on finding and maintaining jobs; streamlining eligibility processes for agency staff; and improving case accuracy. A customized system called eFind pulls data from dozens of state and federal databases, including motor vehicles, new hire registry, social security, and wage match information.⁵⁰ As part of the eligibility determination process, agencies use this data to verify customer-provided information or to access newly reported information. When information from the data is straightforward and clear, eligibility workers can take action on a case, with appropriate notice requirements (typically 1 day or 10 days) for negative actions, such as benefit decreases and case closures. Workers are, however, encouraged to follow up on information that is inconsistent or does not provide a clear picture their particular situation (e.g., wage data from several quarters ago).

Another component of Utah's technologically advanced eligibility process is myCase, which is a customer-friendly website where basic case information can be accessed, including EBT balances, application or review status, and outstanding information needed. Recipients can report changes and complete applications and reviews online, as well as opt in to receive all notices electronically. This allows recipients to access information 24/7 and provides a modern channel through which to communicate with eligibility workers.⁵¹

Utah has developed technological systems to streamline eligibility processes, enabling recipients to reduce their verification burden when information can be obtained through data interfaces. While these systems are generally a good thing, there are still potential pitfalls to this approach. Eligibility workers should continue to be trained and encouraged to apply common sense and good judgment to estimate prospective income. This includes considering job scheduling fluctuations in the context of the current labor market, characterized by volatile jobs; engaging with employers to approximate expected work hours; and ensuring transparency with recipients regarding how income was calculated so that discrepancies or inconsistencies can be properly communicated and addressed.

Benefit Cliffs

Most means-tested programs are designed to gradually phase out benefits as income increases. TANF programs typically allow recipients to keep all of their initial earnings and phase out benefits over time. With SNAP, an additional dollar of earnings typically results in a loss of 24 to 36 cents worth of benefits.⁵² However, some

programs have “benefit cliffs,” meaning a small change in income can lead to a large decline in benefits or even lost eligibility. In these instances, recipients may end up *worse off* when they work more hours or earn additional income. That’s fundamentally unfair to people working hard to get ahead.

One benefit cliff that low-wage workers with volatile schedules may encounter is the “gross income limit” under SNAP. Under SNAP eligibility rules, households without an elderly or disabled member typically must have gross or total income below 130 percent of FPL. However, benefits are based on net income after taking into account deductions such as child care and other work-related expenses or excessive housing costs. This means that small increases in earnings that push a household over the gross income limit may result in a significant loss of benefits. (States can keep SNAP cases open for a month with zero benefits in order to avoid churn, but if income remains above the gross income limit for a longer period, the case must be closed.)

However, states have the flexibility to raise the gross income limit through a policy called “broad-based categorical eligibility.” As of April 2015, 27 states and the District of Columbia had used this option to raise the gross income limit up to as much as 200 percent of FPL for at least some SNAP recipients.⁵³ In these states, SNAP benefits will phase out gradually with increased income, without a sharp “benefits cliff.”

In its recent reauthorization of the federal child care assistance program, Congress required all states to adopt policies that transition families off child care assistance when they are no longer eligible and provide children with stable care as families’ earnings fluctuate (a common occurrence among low-wage workers). First, states are now required to offer 12 months of continuous coverage to children receiving child care assistance, as long as their income stays below the federal cap of 85 percent of state median income—a relatively high threshold. Second, at the end of the 12-month eligibility period, states must have provisions in place to ease families who are no longer income eligible under state eligibility rules off subsidies over some period of time. Combined, these two policy changes could help workers with volatile schedules. However, they may come with additional costs—and most states do not have new money available to cover them. Without significant federal investment, states may choose to reduce the number of families served.

In the 30 states that have adopted the Medicaid expansion under the Affordable Care Act (ACA), one of the most damaging cliffs is gone. Parents no longer have to take the enormous risk of going without health insurance if they add hours to a low-wage job and exceed a pre-ACA Medicaid eligibility ceiling that, in many states, was far below the poverty level. Under ACA, working parents have access to Medicaid coverage at the lowest income levels and, as their income rises, subsidized coverage on a sliding scale through the health insurance exchange. However, in states that have not expanded their Medicaid eligibility to 138 percent of FPL, there is still a steep benefit cliff. Adults in these states will experience a benefit cliff when their income exceeds the state’s income eligibility level and they do not earn enough to receive APTCs (Advance Premium Tax Credits) through the Marketplace (see Appendix B for a description of APTCs). For example, in Kansas, the Medicaid eligibility limit for parents with dependent children is 38 percent of FPL (adults without dependent

children are not eligible at all). Therefore, if a parent in Kansas receives her health care through Medicaid and her income rises above 38 percent, she will not have access to affordable health insurance until her income reaches at least 100 percent of FPL, making her eligible for APTCs through the Marketplace. Children have higher eligibility and do not experience a benefit cliff between Medicaid and APTC eligibility.

Eligibility Verification and Program Churn

Recipients of public assistance must verify their eligibility at designated time intervals; if they no longer meet eligibility requirements, they will lose their benefits. In addition, whether or not they are *actually ineligible*, if they fail to provide adequate documentation of their eligibility, they may also lose their benefits. Many recipients who are denied benefits at redetermination due to lack of documentation later reapply and resume receiving benefits. This cycle of losing and then regaining eligibility is called “churn.” In addition to creating turmoil and instability in the lives of recipients and their families, churn leads to increased costs and administrative burdens for states. Logistical challenges related to unstable work schedules make it difficult for workers to meet (often burdensome) administrative requirements. Requalifying for benefits after a loss of eligibility is also difficult and involves lengthy waiting periods that delay access to critical services.⁵⁴

A study by the U.S. Department of Agriculture (USDA) found that the rate of churn for SNAP is between 17 and 28 percent. The vast majority of those who leave and then return to the program are gone for less than one month.⁵⁵ Churn can result from procedural complications or increased income, both likely scenarios for workers with volatile schedules.⁵⁶

Provisions in the newly reauthorized CCDBG law will reduce the frequency of eligibility redetermination for child care assistance, which has contributed to churn in the past. When families were unable to meet the requirements for eligibility redetermination—because it interfered with employment or because they were unable to gather the required information—they often lost their child care assistance, even if they were still technically eligible.

Prior to reauthorization, churn was common in child care subsidy programs, and it may continue to be an issue until states have fully implemented the eligibility provisions of the new law. One study from 2002 found that 35-58 percent of families returned to the program within one year.⁵⁷ Loss of child care assistance is particularly devastating because child care subsidies are not guaranteed to all eligible families. Each state serves only a small fraction of eligible families because of limited funding. At present, 18 states have waiting lists or have frozen intake for child care assistance.⁵⁸ This means that losing eligibility temporarily due to administrative challenges may ultimately lead to a lengthy wait before regaining access. Families may spend anywhere from a week to over a year on states’ child care assistance waiting lists. Even when families who lose and regain benefits are not placed at the bottom of the waiting list, their child care providers may not be able to hold their

spot without compensation. This forces parents to seek out a new provider, creating instability for children. Further, parents may have difficulty identifying a new provider that can accommodate their volatile job schedules.

While churning at the point of redetermination has been a consistent struggle for Medicaid programs, new options provided by the Affordable Care Act are beginning to contribute to improvements. States are now required to use existing data sources to automate renewals (known as “ex parte renewals”) when possible and provide enrollees with prepopulated renewal forms when ex parte renewals are not possible. States also have the option to implement 12-month continuous eligibility, an ideal approach that ensures recipients will not have to report income fluctuations and other work changes for an entire year once approved for Medicaid. States have had this option for children since 1997; those that have exercised it have experienced reduced churn. In states that have not opted for 12-month continuous eligibility, recipients must report income changes throughout the year, potentially causing them to churn on and off Medicaid if their income fluctuates above and below the eligibility threshold.

Missed appointments can also lead to churn. Workers with volatile job schedules may have as little as one day’s notice of their work hours, making it difficult to arrange and keep appointments. Even phone interviews can be difficult to schedule. While they reduce the need for travel, workers with inflexible jobs may not have enough break time to take calls related to benefits. Some states issue sanctions to workers who miss appointments, potentially leading to case closure. Other states are more accommodating of workers’ job schedules. Some allow phone appointments (which are only helpful to some), weekend or evening in-person meetings, or other concessions that acknowledge the severe challenges recipients face when trying to arrange meetings. One strategy that can be particularly useful for workers with volatile schedules is “on-demand interviews,” where instead of assigning a client a specific time for an interview, the state provides clients with a several-day window during which they may call in at times of their own choosing and be connected with a caseworker who will conduct the interview. Implementing on-demand interviews for SNAP requires a waiver from the USDA’s Food and Nutrition Service, which will monitor states to ensure clients’ calls are being answered and processed in a timely manner.⁵⁹

The new CCDBG law attempts to explicitly address barriers that workers may encounter as they juggle work and benefit access. It requires states to describe how their redetermination procedures and policies will ensure working parents, particularly those enrolled in TANF, are able to comply without disrupting their employment.⁶⁰

Addressing Logistical Barriers to Benefit Access: A Legislative Approach

A bill recently proposed in the California State Assembly (AB 357) takes an innovative approach to addressing the logistical hurdles many workers with volatile job schedules face when they seek out benefits.⁶¹ In addition to requiring employers to provide more notice to workers and accommodate scheduling needs, the proposed legislation sought to make broad changes to labor standards. It included the following provisions:

- Employers cannot take adverse actions against an employee who takes an unscheduled absence to attend an appointment with a county human services agency, provided the employee provides documentation.
- Welfare agencies cannot sanction employees who refuse employment or requirements related to employment if the employer is not complying with fair scheduling rules proposed under the same law.

Many states use electronic verification systems to track workers' income and verify reports from employees and employers. Electronic verifications can reduce the burden on recipients when they are used to automatically redetermine eligibility and to substitute for paperwork. However, such verifications can be burdensome and counterproductive when recipients are forced to explain and document even minor discrepancies between clients' self-reported income and income reported electronically.

Best Practices ⁶²

For many of the programs discussed above, states have considerable leeway in adopting practices that could make their safety net more accommodating to workers with volatile schedules. The following recommendations apply to most programs and are in effect in some states already:

Work requirements

- Use the maximum flexibility allowed under federal law to project work hours or average hours over time.
- TANF allows documented hours of work to be projected forward for 6 months.
- States may request a waiver to average hours of work across a month for students (who are subject to restrictions on SNAP eligibility unless they work at least 20 hours per week).⁶³
- Provide recipients with flexible “add-on activities,” such as online education programs, self-directed job search, or self-organized community service that can be fit around fluctuating work hours, rather than requiring them to attend programs at fixed hours.⁶⁴

- Consider allowing TANF recipients to participate for less than the minimum hours needed to count toward the federal work participation requirement if staying in the same job is a wise decision for their long-term economic prospects. For example, workers may wish to stay in a job that offers fewer hours now but will later give them the seniority to get better shifts/hours.
- Do not tie child care subsidies tightly to actual hours of work.
- Implement new CCDBG rules that allow children to retain subsidies while parents are searching for work after unemployment.
- Treat highly volatile scheduling practices as “good cause” for voluntarily quitting a job, particularly when child care is not available.

Variable benefit amounts

- Allow for variation of income and work hours within a reasonable range without requiring reporting, and/or
- Allow for income calculations that take into account income fluctuations by averaging income over a period of time or incorporating anticipated changes into calculations.
- Disregard temporary increases in earnings that are not expected to last.
- Raise asset limits that restrict the amount of assets, including emergency savings, that benefit recipients can save.⁶⁵

Eligibility cliffs

- Implement new CCDBG rules that provide 12 months of continuous eligibility.
- Offer transitional benefits for recipients that exceed income thresholds for benefit access.
- Adopt eligibility rules that minimize cliff effects, including Medicaid expansion and raising the gross income limit under SNAP.

Verification/churn

- Lengthen recertification periods and assess income eligibility less frequently.
- Minimize the need for face-to-face appointments with caseworkers.
- Allow on-demand interviews, which enable recipients to determine the best time for phone interviews.
- Use electronic verifications to substitute for paperwork and streamline redetermination processes. Develop systems that disregard minor discrepancies and that do not generate constant verification notices for workers with variable schedules.

Conclusion

As workers struggle with employer scheduling practices that leave them with little stability, predictability, and flexibility, many must turn to the safety net for support. While some aspects of public benefits programs are adapting to the realities of the labor market, others are premised on an assumption that recipients can find full-time, standard-hour, predictable employment when desired. This is clearly not the reality for most recipients of income support. Further, some states administering public benefit programs ignore the many logistical challenges created by volatile job scheduling. Keeping an appointment or taking a phone call may be out of reach for a worker who receives little notice of her schedule or faces the constant threat of losing much-needed hours at work.

Across the country, workers' rights advocates are making a strong case for labor standards that create a floor for fair scheduling. But as the scheduling fight proceeds on the labor front, it is also critical that public benefits advocates work to ensure program rules and state policies and practices accommodate workers with volatile schedules. Advocates from each field should collaborate to encourage states to adopt the changes workers need and that are often allowed under federal law. CLASP looks forward to working with partners engaged on both issues to improve the lives of low-income families.

Appendix A: Key Public Benefits Programs

In this brief, we focus on four means-tested public benefit programs where workers who experience volatile schedules may have challenges accessing and sustaining eligibility. While schedule volatility may affect access to other programs as well, these programs illustrate the range of challenges that workers may face. Brief descriptions of each program covered in this paper follow.

Temporary Assistance for Needy Families (TANF)

TANF is a federally funded block grant that states use to provide cash assistance and other benefits and services to poor families with children. States have full flexibility to determine benefit levels and eligibility rules. A key feature of TANF is its emphasis on work for families receiving benefits; states require most adult TANF recipients of cash assistance to be employed or participate in specified “work activities.” If adults fail to comply with work requirements, families receive penalties ranging from removing the adult from the case (resulting in a lower benefit) to termination of the entire family’s benefit. Federal work participation rates require states to engage half of families receiving TANF in a countable work activity for a minimum of 35 hours per week (for 2-parent families), 30 hours a week (for single parents of children over 6), or 20 hours per week (for single parents with children 6 and under).⁶⁶ There is no partial credit for hours worked below these thresholds; consequently, a single parent who works 19 hours per week counts towards the federal rates the same as one who does not have any work at all.

Supplemental Nutrition Assistance Program (SNAP)

The Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps, is the nation’s largest and one of the most important anti-hunger programs, providing nutrition assistance to over 46.5 million people in low-income households in 2014.⁶⁷ SNAP benefits are fully federally funded, and the federal government sets the benefit levels and eligibility rules, although applications and eligibility determinations are conducted by the states. SNAP is responsive to the needs of individuals and households, expanding to serve more people during economic decline and retracting once the economy recovers. It is a critical part of the nation’s safety net. And unlike most other means-tested programs, which are often restricted to particular categories of low-income individuals, SNAP is available to all who are eligible.

Child Care and Development Fund (CCDF)⁶⁸

The Child Care and Development Fund (CCDF) provides child care assistance to low-income families who are employed or enrolled in education or training programs. In 2014, CCDF served over 1.4 million children.⁶⁹ The federal law allows states to establish their programs within broad parameters that allow for considerable discretion. States determine what activities count as work or education; whether recipients must work a minimum number of hours to be eligible; procedures for verifying working hours; and procedures related to reporting changes to schedules and work hours. In 2014, CCDF was reauthorized by Congress. The updated law

includes provisions that are meant to make access to the program less burdensome for families and improve children's continuity of care; several of these provisions are particularly important for parents with volatile work schedules. If implemented as intended, they could considerably improve access to and retention of child care assistance among families struggling with scheduling challenges.

Medicaid

Medicaid is a joint program between the federal government and states that provides health care to low-income individuals and families. Eligibility and exact medical benefits vary across states, with some states offering more robust health care access than others. There are multiple eligibility categories for Medicaid, including low-income seniors, persons with disabilities, pregnant women, and general income eligibility. Information included in this paper refers only to the general income eligibility population. One intent of the Affordable Care Act (ACA) was to create a uniform minimum income eligibility standard of 138 percent of the Federal Poverty Level (FPL) for Medicaid across all states. However, the 2012 Supreme Court ruling on the ACA gave states the option of whether or not to expand their Medicaid eligibility to 138 percent. Thirty-one states (including the District of Columbia) have chosen to expand Medicaid eligibility to 138 percent eligibility, while 19 states have not expanded eligibility. One state is still considering whether to expand.⁷⁰ In the states without Medicaid expansion, income eligibility ranges from zero eligibility for adults with no dependent children to 148 percent of FPL for parents with dependent children. In the majority of non-expansion states, there is no Medicaid eligibility for adults without dependent children and an eligibility limit below 67 percent of FPL for adults with dependent children.⁷¹ Eligibility for children is consistently higher than that for adults and is less affected by fluctuating income.

Appendix B: Programs not covered in this report

Earned Income Tax Credits (EITCs)

The EITC program is a refundable tax credit granted to families who, despite working, earn a low or moderate income. Eligibility and benefit amount depend on the size of families and earnings of working family members.⁷² Families receive the EITC in a lump sum when they file their taxes annually; it is based on annual income for the previous calendar year. We do not discuss the EITC in this report because while many families receiving this benefit are affected by volatile work schedules and income, annual income-based calculations mean EITC access is not affected by this volatility. Rather, the EITC acts as a cushion for many families, providing support to help alleviate the effects of income volatility.⁷³

Advance Premium Tax Credits (APTCs)

APTCs are subsidies provided through the tax system to individuals and families who enroll in health insurance through the Marketplace (federal or state-based). While exact eligibility requirements can be complicated,

people generally qualify for APTCs if their household income is between 100 percent and 400 percent of FPL and they do not have another source of affordable health insurance, such as through an employer or Medicaid. In 2015, approximately 84 percent of all persons receiving insurance through the Marketplace are receiving APTCs, totaling 8.3 million enrollees.⁷⁴ Like EITC, APTCs are calculated on the basis of annual income. However, because credits are paid to insurance companies during the year, recipients must estimate or project their income for the remainder of the year in order to determine their subsidy. Therefore, if they have schedule changes that significantly affect their annual incomes, they should report their income changes to the Marketplace in order for APTCs to be adjusted accordingly.

Workers with volatile incomes, including those with erratic schedules, may find it difficult to project income. They may either overestimate or underestimate their income. If income is overestimated, they may not receive the full amount of APTCs for which they qualify, increasing their monthly out-of-pocket expense for health insurance. Though they will receive a tax refund for the additional APTC amount they should have received, many workers may be unable to wait until tax time to receive such support and may drop their coverage. If a worker underestimates her income, she may receive more APTCs than she is eligible for and be required to pay back some or all of the difference when filing taxes, potentially imposing a significant and unexpected burden at tax time.⁷⁵

Unemployment Insurance (UI)

UI provides an important safety net for jobless workers, including workers with volatile schedules who must quit their jobs or are fired due to conflicts created by such scheduling practices. The program also offers support (“partial UI”) to workers whose hours are significantly cut. We explore the implications of volatile scheduling for access to UI in another publication, *Out of Sync: How Unemployment Insurance Rules Fail Workers with Volatile Job Schedule*.⁷⁶

Appendix C: Questions for Advocates to Ask

With so much state variation in practices regarding public benefits access, advocates concerned with the intersection of volatile scheduling practices and benefits access must look closely at their local requirements. Following are a series of questions that advocates may want to consider as they evaluate the types of changes and improvements that are needed in their states to ensure workers with volatile schedules can access the income supports they need.

Work requirements

- *What is the minimum number of hours of work required to receive benefits?*
- *Does the state allow for variation in work hours within a certain range?*

- *How frequently must the recipient report on work hours?*
- *What amount of change in work hours is considered large enough to warrant reporting the change to the agency?*
- *Are benefits available to workers employed in part-time jobs? What is considered part time? Full time?*
- *What are the consequences for workers who fail to report changes in hours or who inaccurately estimate their work hours?*
- *Is the change reporting process user-friendly?*

Benefit fluctuations

- *Does the state use a prospective or retrospective budgeting system for each benefit program?*
- *In prospective systems, what are the consequences for recipients who inaccurately estimate their work hours?*
- *How often do recipients have to recertify their eligibility/report changes in their schedules or work hours?*
- *Does the state impose restrictions or requirements that cause benefits to fluctuate and are not required by federal law?*

Eligibility verification and churn

- *How often is eligibility assessed?*
- *Has the state adopted 12-month continuous eligibility for any/all of its programs?*
- *How user-friendly is the eligibility assessment process?*
- *How burdensome is the process of reapplying for benefits when hours are reduced?*
- *Are there waiting lists for programs? What is the waiting list policy for recently ineligible recipients who are reapplying for benefits?*
- *Does the state collect data on churn?*
- *Do programs share information when conducting redeterminations? Are redetermination processes for various states coordinated with one another to reduce burden on recipients?*

Benefit cliffs

- *Does the state have “transitional benefits” for workers that have earned enough to become ineligible, so that they do not face a steep “cliff?”*
- *Has the state expanded Medicaid for adults to 138 percent of FPL?*
- *Is funding available to enact policy changes that would ease cliffs?*

Other issues

- *Does the state have a policy regarding sanctions for missed or rescheduled appointments? Does the policy take into account recipients' job schedules?*
- *Does the state take into account workers' job schedules when assigning them to "job club" or other activities?*
- *Are evening, weekend, or phone appointments available to help accommodate workers' schedules?*
- *How does the state treat voluntary quits? Are scheduling challenges considered "good cause" to quit?*
- *What electronic verification systems are in use? Have there been reports of mistakes, particularly for workers with volatile schedules?*

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