Table 7.—*Distribution of States according to ratio (percent) of present statutory maximum* [1] *and three assumed uniform maximums to computed maximum* [2]

Percent of computed maximum	Number of States			
	Present statutory maximum	Assumed uniform maximum of—		
		$20	$25	$30
Total	51	51	51	51
200 or more				1
190–199				
180–189				
170–179				1
160–169			1	3
150–159				4
140–149			1	
130–139	1	1	5	3
120–129			2	3
110–119	1	4		7
101–109	1	2	6	6
100		2		4
90–99	2		7	6
80–89	8	6	11	4
70–79	6	11	8	9
60–69	14	12	10	
50–59	16	13		
40–49	2			

[1] As of Dec. 31, 1945; excludes dependents' allowances.
[2] See table 6, footnote 2.

applicable to all States. A uniform maximum of $20, for example, would accomplish very little, since 42 of the States would fall considerably short of adjusting to the State wage level at this amount. Thus, in about 80 percent of the States, a maximum of $20 would not be geared to the State wage level so as to permit the determination of benefits for 75 percent of the eligible workers in the State at the wage-loss ratio specified in the State law. Measured by this same standard, a basic maximum amount of $25 might be too high in 15 States but too low in the remaining 36 States (table 7). Even in the 15 States, a maximum of not less than $25 might be justified if an examination of the costs of basic necessities in relation to the number of dependents of claimants in the higher wage brackets shows that such a maximum is necessary to enable claimants to tide themselves over between jobs without recourse to other resources. Although in the remaining 36 States a $25 maximum falls short of the suggested standard of adequacy, it would reduce considerably the proportion of beneficiaries whose benefit amounts are restricted by the statutory maximum.

Wartime increases in wage levels have been a primary factor in producing the inadequacies of the present statutory maximums. From January 1941 to October 1944, average gross weekly earnings increased by more than 76 percent. This rise was the result of increases in straight-time hourly earnings, shifts of workers to higher-paid war industries and higher-paid localities, accelerated merit increases and promotions, increased shift premium payments, abnormal incentive earnings, increase of overtime work at premium pay, and more continuous employment.[5] A slight rise continued through the first month of 1945, but thereafter average weekly earnings showed a steadily declining trend until December, when a small increase occurred. Average weekly pay in December 1945 was 13.1 percent below that for the same month of 1944 as a result of reductions in both hourly pay and working hours.[6] Part of the decline is being regained through increases in hourly wage rates, however. While it is difficult to predict future wage rates, probably gross weekly earnings will fall below wartime levels, and high-quarter earnings in 1944 or 1945 will represent for many workers a peak that will not be exceeded or even reached for a long time. As a conservative approach toward adjusting the maximum payment, it might be related to something less than the peak wartime wage levels, with attention to the trend in wages as well as the distribution of wages at a particular time.

The probem of adjusting the maximum payment cannot be isolated from other elements in the benefit formula. Adjustment of the eligibility requirements or of the wage-loss ratio would necessarily affect the relation of the maximum payment to the wage level of eligible workers. So will adjustment of the benefit formula in relation to the costs of basic necessities. Moreover, raising the maximum for all claimants is not the only possible device. One alternative would be to increase the maximum only for claimants with dependents.

[5] National War Labor Board, *Wage Report to the President*, February 22, 1945.
[6] "Trend of Factory Earnings, 1939 to March 1946," *Monthly Labor Review*, June 1946, pp. 1006–1007.

Claimants Awaiting Recall—Their Special Problems of Availability and Suitability of Work

By Olga S. Halsey*

"THE CLAIMANT was denied benefits because he stated he was returning to his former employment." [1] This claimant for unemployment benefits, appealing from a decision to deny him benefits, testified that he had expected to return to his former employer; that by the time of the hearing, however, he was not quite sure that he would be recalled; and that he would now accept suitable employment if it were offered. On the basis of these facts, he was held to have been unavailable for work and ineligible for benefits until the day on which he said that he was willing to take other suitable work.

To the employee, denial of unemployment benefits under such a decision means economic pressure to take other work rather than to wait, wholly at his own expense, for his regular employer to resume operations. To the employer, it may mean inability to recall experienced workers when he again starts production. For unemployment insurance, such a decision raises questions as to the circumstances under which claimants may be considered "available for work"—a condition which all claimants must meet if they are to be eligible for unemployment benefits.

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[1] Md. 9817, Dec. 19, 1945; contra: Md. 9548, Dec. 14, 1945, unpublished. For similar holdings see 9865–Ala. A (June 18, 1945), *Ben. Ser.*, Vol. 8, No. 10; Ga. AT–4199, Feb. 1, 1946. Citations to *Ben. Ser.* refer to *Benefit Series* of the Unemployment Compensation Interpretation Service, issued by the Social Security Board through Vol. 9, No. 7, and thereafter by the Social Security Administration. Citations to unpublished decisions give the name of the State and the official State number of the case.

Is the requirement that a claimant must be "available" for work satisfied, as this and similar decisions assume, only if the claimant is "available for work without restrictions—that is, available for *any* work which he is qualified by training and experience to do"?[2] Or is it satisfied if the claimant is available for work that is suitable to him as an individual and that he has a reasonable prospect of securing in the labor market where he wishes work?[3] If this provision meets the availability requirement, the availability of the individual claimant who will be recalled is a question of fact to be determined in each individual case. Under this approach, the availability of such a claimant will depend on the limitations he may impose in view of his prospects of a recall—its certainty and the anticipated duration of his lay-off.

Questions of "suitable work" and of "good cause" for refusing suitable work may also arise when a worker, in view of promised or expected recall by his last employer, declines to take a particular job open to him. All State laws disqualify from benefits a claimant who, within the meaning attributed to those terms, refuses suitable work without good cause.

State decisions on availability for work and on suitable work and good cause for its refusal reveal marked differences in the policies applied to cases of laid-off workers.

Temporary Lay-Offs

Availability for Work

The availability of claimants who have been laid off for only brief periods and will definitely be recalled at an early date and who, therefore, are not interested in other permanent work would seem less doubtful than that of those who have been laid off indefinitely or for a prolonged period. But this is not always the holding. Take, for example, the case[4] of an employee who had worked 23 years for her last employer and was laid off for lack of work. Two weeks later, she registered with the U. S. Employment Service for other work and filed her claim for unemployment benefits; nearly 3 weeks later, she accepted a referral by the USES and explained to the prospective employer that she expected to return to her regular employer within 2 weeks. Because of her statement that she planned to return to her regular employer, this claimant was held unavailable for work, on the ground that a claimant who restricts herself to one employer is not available for work. Or take the case[5] of a rivet presser who had worked for her employer for about 21 years when she was laid off because of shortages of material. She did not follow up a referral to work as an unskilled laborer at 40 cents an hour for a 50-hour week in a city 7 miles away. She discussed this job, however, with her husband and he then called her foreman, who assured them that the claimant would be back at work in the old plant in a few days and advised her not to take the new job. Four weeks later she was recalled. Because of the definite assurance of her old job in the immediate future, she was not disqualified for having refused the job referral;[6] however, she was held unavailable for work because she had elected to hold herself from the labor market until she was recalled.

At the other extreme is a decision which was given in the case of a claimant[7] who was laid off for an indefinite period after she had accumulated 5 years' seniority with her last employer but was notified that she would be recalled. She was actually recalled after about 5½ weeks. During her unemployment she had made no effort to find another job. In holding this claimant available for work, the referee pointed out that, in view of her seniority and the fact that her lay-off was temporary, she should have a reasonable period in which to be recalled before looking for other work. The Vermont Unemployment Compensation Commission has adopted a somewhat similar policy. Its policy[8] is that, when an employer confirms a claimant's statement that he will be recalled within 4 weeks, the claimant shall not be disqualified for refusing *any* work within this period. If the lay-off is expected to be more extended or lasts beyond the original 4-week period, discretion is given to the Commission's local representative to decide whether or not the claimant is to be disqualified for refusing otherwise suitable work.

Willingness to take temporary work.—A middle position is taken by some State appeals bodies, which expect claimants who have been temporarily laid off to be willing to take suitable temporary work. Thus a cannery worker[9] had been laid off indefinitely because of a shortage of raw materials, with the understanding that she would be recalled. She was held unavailable for work because she had refused other temporary cannery work of a kind that she had done previously, that paid her customary wage, and that would not have prevented her return to her regular employer. Other workers[10] who were temporarily laid off while their employer was retooling for a different type of war work were given special

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2 10172–Ga. A (Aug. 14, 1945), *Ben. Ser.*, Vol. 9, No. 1. Italics supplied.

3 Bureau of Employment Security, "Report on Special Postwar Problems of Women Claimants," June 1946, p. 58. (Attachment to Research and Statistics Letter No. 120, July 15, 1946.)

4 9865–Ala. A (June 18, 1945), *Ben. Ser.*, Vol. 8, No. 10.

5 9289–Wis. A (March 1944), *Ben. Ser.*, Vol. 8, No. 3.

6 If this claimant had been disqualified for having refused work without good cause, she would not have been eligible for benefit during the week in which the refusal occurred and until after she had again been employed within at least 4 weeks and had earned wages at least equal to four times her weekly benefit amount. The unavailability holding merely affected the claimant's benefit rights until such time as she was reemployed or she removed this limitation.

7 10007–Kans. A (Dec. 8, 1943), *Ben. Ser.*, Vol. 8, No. 11.

8 Vermont Unemployment Compensation Commission, *Policy and Procedure with Respect to Determination of Suitable Work and Refusal of Referral*, October 17, 1945, pp. 2, 3.

9 9972–Calif. R (Feb. 2, 1945), *Ben. Ser.*, Vol. 8, No. 11; see also 9267–Pa. R (Oct. 31, 1945), *Ben. Ser.*, Vol. 8, No. 3. In this second case, temporary work from which the claimant would have been released to return to his regular employer and which utilized the claimant's training and experience was held suitable, even though it involved a lesser skill and paid a lower wage, since the employment was for only 6 weeks.

10 9764–Ga. R (June 6, 1945), *Ben. Ser.*, Vol. 8, No. 9; contra: 10172–Ga. A (Aug. 14, 1945), *Ben. Ser.*, Vol. 9, No. 1; see also: 9060–Maine A (Apr. 6, 1944), *Ben. Ser.*, Vol. 8, No. 1; 9188–Ore. A (Apr. 24, 1944), *Ben. Ser.*, Vol. 8, No. 2; 9461–Tex. A (Dec. 15, 1944), *Ben. Ser.*, Vol. 8, No. 5.

temporary wartime releases for 4 to 6 weeks, with the understanding that they would be subject to recall within this period. Though these claimants registered for temporary work, the Georgia Board of Review held them available for work, pointing out that "A claimant may properly refuse an offer of work which is otherwise suitable if there is a *definite* and *reasonable* probability that he will in a short time be able to be reemployed in his former position . . . Temporary lay-offs for purposes of retooling, stock-taking, etc., shall not be regarded as permitting the worker to refuse otherwise suitable work for more than a reasonably short period and only when the indication that he will be reemployed at the expiration of this period is *clear* and *definite*." (Italics supplied.)

When a claimant has been willing to accept other work pending his recall, but the employer to whom he was referred was unwilling to hire temporary workers, the claimant has been held to be available.[11] In one decision [12] the referee recognized that the claimant had merely been honest in advising the prospective employer that, if she were hired, she would leave if she were offered reemployment by her previous employer.

Refusal of permanent work.— Claimants who have refused work for which the employer desires permanent employees or which would prevent their return to their regular employer have also been held available for work. One case involved experienced loopers in a hosiery mill who had been laid off temporarily and who refused unskilled work in an essential food industry in which they had had no experience and from which they would not have been released under wartime restrictions to return to their regular employer. In holding that they had good cause for refusing the work offered and were available for work, the Pennsylvania Board of Review pointed out that [13] "The law does not specifically require that a claimant be available for permanent employment and we find no basis whatsoever for inferring that such was the intent. If such were the intent every employee would be required, during a period of temporary lay-off in his regular employment, to completely disassociate himself from the existing employer and become a free agent on the labor market. Considering the disruption this would cause, we cannot conceive of such a legislative intent. We believe that the legislature intended nothing more than a general availability during each week of unemployment."

The California Appeals Board [14] adopted a similar approach in the case of a milliner who had been employed in a retail establishment for some 16 months making custom-made hats when she was laid off the last of June 1945 because of shortage of materials but with the definite assurance that the establishment would reopen about the first of August. The claimant was actually recalled August 6. About 2 weeks after her lay-off, a possible permanent job in a wholesale house was discussed with her and, a week later, a similar permanent job. She was not interested in these jobs, particularly the latter, because by that time she expected to be recalled within a week. The Appeals Board pointed out that the acceptance of either of these jobs would have required the claimant to relinquish her former position, which she had every reasonable expectation of resuming within a short time, declaring, ". . . to require this claimant under penalty of disqualification from benefits to sever a temporarily suspended employment relationship, with attendant loss of seniority and possibly other accumulated rights, where the relationship has been continuous and as far as the record discloses, entirely satisfactory to all parties for a considerable length of time, would unstabilize rather than stabilize employment conditions, and therefore would be contrary to one of the fundamental purposes of the Act." In view of these facts, the claimant was held not to have unreasonably restricted her employment opportunities and to be available for work.

Although the decisions, except those which involve wartime labor controls by the War Manpower Commission, do not always distinguish clearly between "temporary" and "permanent" work, it is obvious that the State appeals bodies, in speaking of temporary work, have had in mind stopgap employment which the worker would accept with the expectation of leaving it as soon as he was offered reemployment by his last employer. Similarly, it is clear that, in using the term permanent work, the appeals bodies have referred to work for which the employer wishes employees whom he would have a normal expectation of retaining so that the expense of training a new employee would not obviously be wasted. It is in this limited sense that the two terms, temporary and permanent work, are used.

"Suitability" of Work and "Good Cause" for Refusing Work

Claimants who have been laid off temporarily and who refuse other work offered by the USES may be denied benefits not only on the ground that they are not "available" for work but also because they have refused "suitable" work without "good cause." One claimant was held to have had good cause for refusing suitable work when her refusal was based on the knowledge that she would be recalled by a former employer in 2 or 3 weeks.[15] In another case [16] a claimant who had been doing skilled work for a tile manufacturer for 9 years and had 4 to 5 years' accredited seniority was laid off temporarily because of slack work and given a temporary release. Three days after the claimant had

[11] 9461–Tex. A (Dec. 15, 1944), *Ben. Ser.*, Vol. 8, No. 5; 10536–La. A (Dec. 26, 1945), *Ben. Ser.*, Vol. 9, No. 6; 10702–Colo. A (Dec. 15, 1945), *Ben. Ser.*, Vol. 9, No. 8; 10729–Maine A (Jan. 23, 1946), *Ben. Ser.*, Vol. 9, No. 8; contra: 9865–Ala. A (June 18, 1945), *Ben. Ser.*, Vol. 8, No. 10.

[12] 10702–Colo. A (Dec. 15, 1945), *Ben. Ser.*, Vol. 9, No. 8.

[13] 9018–Pa. R (Mar. 14, 1944), *Ben. Ser.*, Vol. 7, No. 12; contra: 8931–Pa. R (Apr. 6, 1944), *Ben. Ser.*, Vol. 7, No. 11.

[14] 10421–Calif. R (Dec. 6, 1945), *Ben. Ser.*, Vol. 9, Nos. 4–5.

[15] Mass. 14738 RE, Jan. 31, 1946, unpublished; contra: 10638–Mass. A (Sept. 21, 1945), *Ben. Ser.*, Vol. 9, No. 7, affirmed by Board of Review decision No. 12568–BR, unpublished.

[16] 8284–Tenn. A (June 1, 1943), *Ben. Ser.*, Vol. 6, No. 12; see also 6334–Ill. R (Mar. 19, 1941), *Ben. Ser.*, Vol. 4, No. 8; 9066–Mass. A (July 27, 1944), *Ben. Ser.*, Vol. 8, No. 1; 9236–Mich. R (Oct. 18, 1944), *Ben. Ser.*, Vol. 8, No. 3; 10146–Tenn. R (June 21, 1945), *Ben. Ser.*, Vol. 8, No. 12; 10177–Ill. R (July 31, 1945), *Ben. Ser.*, Vol. 9, No. 1; 10249–Ill. R (May 17, 1945), *Ben. Ser.*, Vol. 9, No. 2; 10274–Mich. A (July 25, 1945), *Ben. Ser.*, Vol. 9, No. 2.

registered with the USES and filed his claim, he was offered work 18 to 20 miles from home in a cotton mill, in which he had had no experience. Moreover, had he accepted this work, he would have lost his seniority rights. On these facts, the work was held not suitable and the claimant was not disqualified.

Questions of both availability and suitability of work entered into the decision concerning a claimant who had been earning an average of $65 a week as a route man for a bottling concern and was laid off temporarily when a reduction in the plant's sugar quota caused a shut-down.[17] The claimant refused to apply for jobs as a truck driver and as a warehouseman, the latter at $100 a month, because he expected to be recalled any day. In view of the lower earnings in the jobs offered and the probability of his recall to his former position, those jobs were held not suitable. He was also held available for work.

These decisions on the suitability of work turn on the suitability of the work in view of the lower wages, the different skills required, the length of unemployment, and prospects of recall. The decisions reviewed do not, however, include claimants who have refused work during a purely seasonal lay-off. In such cases the negligible prospect of obtaining work in the claimant's usual occupation frequently is given great weight in determining the suitability of work which the claimant has refused.

Indefinite Lay-Offs

Some State appeals bodies make a clear distinction between claimants who have been temporarily laid off with definite assurance of recall and those whose recall is uncertain or postponed indefinitely. As one referee[18] pointed out, "We have repeatedly held that a claimant is justified in holding himself available for one employer only in case of a shut-down in the plant due to an industrial accident or a temporary halt in the work for other reasons provided it is definite and certain that said employee will be recalled to work within a reasonable time." Because the claimant in this case lacked this definite assurance, it was held that he should have made himself available for other suitable work during his lay-off.

Willingness To Take Temporary Work

When claimants have been laid off for an indefinite period with no assurance of the date of recall, it is not unreasonable to expect them to be willing to take temporary work for another employer. Thus a group of weavers, union members, were laid off early in April 1945 for an indefinite period because of the expiration of Army contracts, although it was not expected that any would be permanently separated. During their lay-off they were referred to temporary work as weavers at standard rates for a second company. In this case[19] an agreement had been reached between the USES, the prospective employer, and the claimants' union that the regular employer should have priority when he wished his old employees back. The claimants were informed of this agreement. They refused the temporary work because they feared its acceptance would jeopardize their insurance, their seniority rights, and their vacation pay. In this case, there was no provision in the agreements between local employers and the union which would prohibit employees temporarily laid off by one employer from working for another. The Pennsylvania Board of Review held that these claimants had refused suitable work without good cause and that they were unavailable for work.

Claimants who have indicated their willingness to take temporary work during their lay-off have been held available for work. Thus a fur finisher[20] of 22 years' experience had worked 9 months for her last employer as head finisher when she had had to leave because of illness. About 5 weeks later, when she had recovered, she registered for work. Although her own position had been assigned to another, she had been assured that, when the season opened, she would be called back. In the meantime, she was willing to take other work which used her specialized experience if it would not prevent her return to her regular employer. The commissioner pointed out that the claimant's restriction to work which would permit her to return to her regular employer was "entirely reasonable," adding, "This construction tends to establish good will between employer and employee, as well as stability of employment, since it allows an employer to retain his old, experienced help, and permits the employee to retain the benefits of his seniority status, familiarity with the job, and the higher wages oftentimes received by an older employee." He held the claimant available for work.

Refusal of Permanent Work

Claimants whose lay-off is prolonged or whose prospects of recall may be indefinite and who refuse an offer of permanent work have been disqualified for refusing suitable work without good cause or held unavailable for work. In such cases the prospects of recall may apply to all individuals or to a particular claimant.[21] Thus a claimant employed as assembler by a radio manufacturer for about 4½ years at 80 cents an hour was laid off the last of August 1945 because of lack of work. About 2 months later she refused a referral as an assembler of pens at a starting wage of 75 cents an hour because the wage was too low and because she expected to be recalled by her last employer, although she could give no definite date. About 2½ months later she was reemployed by her former employer at 88 cents an hour. Because she had been unemployed 8 weeks when she refused the referral, had no immediate prospects of employment, and had made no effort to look for work on her own initiative, she was held to have been unavailable for work.

Another claimant[22] also had worked

[17] 10513–Ark. A (Dec. 19, 1945), *Ben. Ser.*, Vol. 9, No. 6, affirmed by Board of Review decision No. 340–BR, unpublished.

[18] 9222–Kans. A (July 17, 1944), *Ben. Ser.*, Vol. 8, No. 3.

[19] 9017–Pa. R (Aug. 15, 1944), *Ben. Ser.*, Vol. 7, No. 12.

[20] 8953–Conn. R (May 23, 1944), *Ben. Ser.*, Vol. 7, No. 12; see also 10087–Ga. A (June 19, 1945), *Ben. Ser.*, Vol. 8, No. 12.

[21] Ill. 46–RD–557, Jan. 29, 1946, unpublished, affirmed by Board of Review decision No. 46–BRD–332, Apr. 24, 1946, unpublished.

[22] Ill. 46–RD–902, Feb. 18, 1946, unpublished, affirmed by Board of Review decision No. 46–BRD–288, Mar. 29, 1946, unpublished, on the ground that the appeal was filed after the expiration of the statutory time limit for filing appeals.

for a radio manufacturer as an assembler and solderer at 80 cents an hour, when she was laid off the middle of August 1945 after 3 to 4 years' service. At the time of her lay-off the claimant was assured she would be called back as soon as the company reconverted and could get materials. The company sent her three letters dated October 2, October 29, and November 30, informing her that she would be reemployed as soon as it could get the necessary materials. The last letter indicated that the situation was improving and that, if improvement continued, the company hoped to have all employees to whom the letter was sent back at work within 30 days. Thirteen days later the claimant was recalled by this employer at 88 cents an hour. Just after the claimant had received the second letter, when she had been unemployed 10½ weeks, she refused a referral to another radio manufacturer for similar work at 68 cents an hour because the wage was too low and she expected to return to her regular employer. Since the prevailing wage for this type of work ranged from 64 to 90 cents an hour, she was held to have had good cause for refusing this work. Although the appeals body recognized that the claimant had "some prospects" of recall, those were considered not "sufficiently definite and immediate." However, because she had not been actively looking for work in view of her indefinite prospects of reemployment, she was held unavailable for work and hence ineligible for benefits.

In another plant some 1,300 workers, including the claimants,[23] were involved in a "reconversion lay-off" while the company obtained releases from the Government for materials needed for its civilian production and confirmed orders already received. The claimants averaged 2 years' employment with this company, had accumulated seniority, had acquired a skill which was not locally usable elsewhere, and had been receiving higher wages than they could reasonably expect to obtain elsewhere. When these employees were laid off, they were told that they would be recalled in order of seniority.[24] After the claimants had been out of work less than 1 month, they indicated that they wished to wait for their former work. At the referee's hearing, the employer's personnel director testified that new work had not developed as anticipated, that it was unlikely that employees not then recalled would be rehired within 30 days, and that, in fact, no definite assurance could be given when these claimants would be called back. This was the first information given them regarding the slowing up of recalls. In view of the short time between their lay-off and their statement that they wanted to wait for their former work, their reasonable expectation of an early recall prior to the date of the hearing, and the exceptionally favorable conditions of their employment, the referee held that other work was not suitable for them at the time the initial disqualification was imposed and that they were available for work up until the date of the hearing. However, because of the uncertainty of the claimants' recall brought out at the hearing and their restrictions, he held them unavailable for work from this date until they might remove their limitations.

The definiteness of reemployment not only may depend on the employer's plans for resumption of work but also may vary with the prospects for recall of an individual claimant because of his low seniority rank or other factors. Thus a 69-year-old miner,[25] who had been engaged in coal mining all his life, was laid off in a reduction of force because the employer wished to retain the younger and more able-bodied men. When this claimant went back to his employer to see about his chances of work, he was told that no work was available and that he would be called when he was needed. He did not know when his employer planned to reopen the mine or when to expect reemployment. None of the other mines would employ him because he was capable of only light work. Approximately 4½ months after his lay-off, he failed to apply for a job as a porter at 60 to 65 cents an hour in a plant which would have assigned him work in keeping with his physical ability. In view of the length of this claimant's unemployment, he was disqualified for having refused suitable work without good cause.

Information Concerning the Duration of the Lay-Off

The appealed benefit decisions reviewed contain little direct information from the employer concerning the duration of the lay-off. In many cases, none appears. In a few cases, the only information on this point apparently available to the appeals bodies was that given by the claimant's union representative.[26]

The importance of official information from the employer, both to laid-off workers and to the State employment security agency, is illustrated by the case of a claimant[27] who, about a month after his V-day lay-off, refused a referral to similar work in another plant because he said, judging from the way his foreman talked, he would soon be back at work with his former employer. The company's employment manager testified, however, that no foreman was authorized to indicate possibilities of recall because even the employment office did not have any idea exactly how soon the men would be back at work. Under these conditions, the claimant was held to have refused suitable work without good cause.

A somewhat similar case involved a group of shipyard workers[28] who were laid off early in February 1945 after 1 to 2 years' employment in the electrical department. When they were laid off, their leader man told them that they would be reemployed in 4 to 8 weeks and they were given temporary releases. About 2 weeks after their lay-off the claimants signed statements that they were not interested in other work as they expected to return soon to their last employer. Later, the local USES representative questioned the employer and was informed that this yard did not expect to hire any one in its elec-

[23] 10499–Tenn. A (Nov. 30, 1945), *Ben. Ser.*, Vol. 9, Nos. 4–5.

[24] In this plant, all employees retain their seniority until they refuse an offer to return to their former work.

[25] 10432–Ill. R (July 31, 1945), *Ben. Ser.*, Vol. 9, Nos. 4–5.

[26] 9066–Mass. A (July 27, 1944), *Ben. Ser.*, Vol. 8, No. 1; Md. 8958, Dec. 27, 1945, unpublished.

[27] Mich. B5–7920, Dec. 5, 1945, unpublished.

[28] 9762–Fla. A (Apr. 13, 1945), *Ben. Ser.*, Vol. 8, No. 9; see also 10499–Tenn. A (Nov. 30, 1945), *Ben. Ser.*, Vol. 9, Nos. 4–5.

trical department for 90 days. Apparently, this new development was not brought to the claimants' attention. The claimants, who had previously drawn benefits, were then held unavailable for work and ineligible for benefits. They appealed. At the referee's hearing early in April a company official testified that his company might never reemploy these claimants and that in any case there were no prospects for reemployment before the following August or September. When the claimants heard this, they indicated their willingness to take other suitable work when it was offered them. This official also testified that when the claimants were laid off, no effort had been made to advise them of their future prospects of work with his company. Because the leader man's statement was supported by the temporary release given the claimants, they were considered to have been justified in expecting to be recalled. The referee held them available for work and eligible for benefits because of the manner of their lay-off and the temporary release given them. By contrast, in another case [29] in which the claimant's employer had filed a statement that there was no certainty that he would be able to reemploy this particular employee, the claimant was held unavailable for work because, in the absence of any assurance as to his recall, he should have made himself available for other work.

Policy Relating to Claimants Awaiting Recall

The decisions cited above illustrate the contrasts in existing policy concerning claimants who expect to be recalled by their last employer. These fall into two main groups. On the one hand, a rule of thumb automatically holds claimants unavailable for work because they expect to be recalled, regardless of the immediacy or certainty of the recall and their willingness to take temporary work. On the other hand, consideration is given to the probable duration of the lay-off, the certainty of recall, and the claimants' readiness to take temporary work, before they are held unavailable for work or disqualified for refusing suitable work without good cause. These two policies have important implications for both the claimant and his employer.

Policy Implications

The automatic policy of holding unavailable for work all claimants who are awaiting recall by their last employer reduces potential charges on the account of a claimant's last employer and also on the unemployment insurance fund. It accomplishes this, however, by an unduly restrictive interpretation of "available" for work. The practical result for the claimant is a denial of benefits which places economic pressure on him to sever an employment relationship, perhaps of years' standing, which has proved satisfactory to both the worker and his employer.

Although a denial of benefits may be to an employer's immediate advantage by preventing a charge against his account and a later possible adverse effect on his experience rating, it is doubtful whether either the claimant or his employer benefits in the long run. If the claimant yields to the financial pressure resulting from a denial of benefit, he may take a similar job in another establishment where he is less familiar with the work and, therefore, may be less likely to make good, where his chances of promotion may be less favorable, and where, as a newcomer, he may be among the first laid off if the plant has to reduce its force. He may have to accept another type of work, with loss of an opportunity to use special skills and a resulting reduction in wages. If claimants yield to this pressure after a shut-down, an employer will have to replace experienced employees, incurring expense for selecting, hiring, and training new workers and for firing and replacing those who do not prove satisfactory. In short, this policy increases instability of employment and labor turnover and their attendant social and financial costs.

By contrast, the second policy, which considers the claimant's prospects of a recall, not only is consistent with the purpose of the availability requirement but also helps to stabilize employment by permitting the payment of benefits to laid-off workers who, the employer reports, will be recalled within a reasonable period. Benefits are not denied to a claimant merely because he desires to resume within a short period a relationship that has proved satisfactory and presumably promises more security of employment and greater chances of advancement than he probably could obtain as a new employee in another plant. Moreover, the suitability of any work he may refuse is considered in the light of his prospects of a recall. The employer has greater certainty that his regular and trained workers will be available when he resumes production. To the extent that old employees return, labor turnover, with its expense both to the employee and the employer, is reduced. Thus it tends to promote stability of employment—the expressed purpose of many State unemployment insurance laws.

Implementing the Policy

If claimants who have a reasonable prospect of recall within a reasonable period are to be considered available for work and are not to be disqualified automatically for refusing other work, it is necessary to determine the circumstances in which a claimant will continue to be held available and the conditions under which he may refuse proffered work.

The probable duration of a lay-off can be known only to the employer. Consequently, employers should advise the State employment security agency and the USES of the probable duration of a lay-off or should make every effort to give their best estimate when this is requested. When the outlook for recall changes, these agencies should be currently informed of the altered prospects. This information will be of great importance in determining whether it would be reasonable to expect the claimant to accept temporary or permanent work, if it is otherwise suitable. Employees also should be currently and officially advised of the anticipated length of their lay-off in order that they may decide whether to take temporary or permanent work elsewhere. If employees have been given incorrect information unofficially or have reasonable grounds for expecting to be recalled within a reasonable time, they may be paid

[29] 9222–Kans. A (July 17, 1944), *Ben. Ser.*, Vol. 8, No. 3; see also 10499–Tenn. A (Nov. 30, 1945), *Ben. Ser.*, Vol. 9, Nos. 4–5.

benefits, as in some of the decisions reviewed, even though management may not expect to reemploy them in the near future.

If it is unlikely that all employees will be rehired, because work in some departments is to be curtailed or discontinued or a general reduction in force is anticipated, it would also be helpful if both the employees affected and the State employment security agency were advised. If employees knew that they definitely would not be recalled or that their recall were improbable, they could plan to take other work. If names of such employees were forwarded to the local employment office and the State employment security agency, it would be helpful in deciding whether these claimants reasonably might be expected to take other suitable permanent work and, if they refuse, whether they should be held unavailable for work or disqualified for having refused suitable work without good cause. Without such information, the State agency may have to assume that claimants have an equal chance of being called back, with the result that benefits may be paid to some whom it is definitely planned not to recall.

Temporary lay-offs.—The employer's estimate of the probable duration of a lay-off and the prospects of recall for an individual claimant determine whether or not the claimant should be expected to take temporary or permanent work elsewhere during his lay-off, provided, of course, that the employee has been given the same information.

Claimants who, the employer reports, will be recalled within a relatively brief period may reasonably be expected to refuse an offer of work open only to permanent employees.

Based on a refusal of such work, a disqualification for having refused suitable work without good cause or a holding of unavailability would appear unreasonable. In such cases, willingness to take temporary suitable work may be sufficient to establish availability, even though local employers may be unwilling to hire temporary help. Refusal of suitable temporary work, however, may render the claimant unavailable for work, if he indicates that he is not interested in any other work during his lay-off. On the other hand, when the refusal is based on the claimant's objection to the particular job offered him, it must be determined whether the work meets the normal criteria of suitable work; if it is suitable, the claimant reasonably may be disqualified for having refused suitable work without good cause.

Special situations may modify this general result. One such situation is when a claimant has been led by a company representative to believe incorrectly that he will be recalled and, acting on this information, has refused suitable work that he otherwise might have accepted. A somewhat similar situation is presented by claimants who were told at the time of the lay-off that they would be recalled but who have not been informed of changes that have postponed their return. In such cases the claimant may reasonably be held to have had good cause for refusing otherwise suitable work. A different question is presented by a claimant who has been employed for only a brief period by his last employer and refuses an offer of an equally good and regular employment because he expects to be recalled. Such a claimant reasonably may be disqualified for having refused suitable work.

Claimants who will not be recalled after a temporary lay-off reasonably may be expected to take other permanent suitable work. Claimants who refuse this may reasonably be disqualified in the same manner as other employees who refuse suitable work without good cause.

The dividing point at which claimants may be expected to take permanent work or will be denied benefits for refusing it is a matter for administrative discretion.

Indefinite lay-offs.—Lay-offs may be indefinite because the employer cannot estimate the date on which he will resume operations, even though he confidently expects to do so, or because he is uncertain whether he will reopen a particular department or the entire plant. When policy concerning laid-off workers is based on their prospects of being recalled, claimants who have been laid off for an indefinite period with the certainty of recall may reasonably be expected to take suitable temporary work during the shut-down, and should not be denied benefits for refusing permanent work. However, as the lay-off becomes more extended without any improvement in the prospects of a return, claimants may reasonably be expected to take permanent work elsewhere, particularly the most recent employees and those whose skills and aptitudes are most readily transferable. Likewise it is reasonable to expect that claimants whose lay-off is indefinite, because of the employer's uncertainty whether he will reopen, should be prepared to accept permanent suitable employment elsewhere. Such claimants may reasonably be held unavailable for work if their refusal of work is based on their unwillingness to take any other work while they are awaiting recall. If the work refused meets the normal standards of suitable work, they may reasonably be disqualified for refusing suitable work without good cause unless, of course, special facts should alter the decision.

Conclusion

Realization that the common interests of the claimant and his employer are served by a policy of not denying unemployment benefits automatically to all claimants who report that they will be called back by their last employer would lead to a reconsideration of the policy now indicated in many decisions concerning such claimants.

If the policy is adopted that a claimant's willingness to take temporary work is sufficient to meet the requirement of being available for work, claimants who have been laid off temporarily and will definitely be recalled within a reasonable period may reasonably refuse permanent and otherwise suitable work without incurring a disqualification for having refused suitable work without good cause or without being held unavailable for work under this policy. As the lay-off becomes more extended, it would be reasonable to expect these claimants to accept other suitable permanent work, especially the newer employees and those whose skills can be used most readily in other local work.

By contrast, under this policy,

claimants who will not be called back or who have been laid off indefinitely because of the company's uncertain future plans may be expected to accept other suitable permanent work. If the work is suitable and if the refusal is based on objections to the job itself, claimants may reasonably be disqualified for having refused suitable work. However, if the refusal is based on unwillingness to take any work while awaiting recall, they may reasonably be held unavailable for work.

The application of a policy that makes it possible to pay benefits to claimants with definite prospects of a recall within a reasonable time will increase the employer's assurance that his experienced employees can afford to wait until he again has work for them. Its application depends, however, not only on a reconsideration of policy by some State appeal bodies but also on the extent to which employers furnish information concerning the probable duration of a lay-off, both to their employees and to the State employment security agency. Without this information, employees cannot decide intelligently whether to accept temporary or permanent work elsewhere and the State employment security agencies are working in the dark. On the one hand, they may deny benefits to claimants who will be recalled in the early future; on the other, they may pay benefits to claimants on the basis of uninformed statements of claimants and foremen, even though management does not expect to rehire these claimants.

To the extent that employers wish to increase the likelihood that their laid-off workers will return when needed, they can facilitate the work of their State employment security agency in holding these claimants eligible for benefits by advising both their employees and the agency of the anticipated length of a lay-off and of individual claimants' prospects for recall.

The Hospital Survey and Construction Act

By V. M. Hoge*

THE SIGNING of the Hospital Survey and Construction Act by the President on August 13 launched the Nation on the most comprehensive hospital and public health construction program ever undertaken. Congress has authorized the appropriation during the next 5 years of $375 million in Federal funds for the building of hospitals and health centers. Since the act provides that the Federal share is to constitute one-third of the cost, and non-Federal funds the other two-thirds, the total expenditure for this Nation-wide hospital program would approximate $1,125 million.

The Hospital Survey and Construction Act is more or less unique in social legislation. Rarely has a legislative act had the unanimous support of so many interested groups, both professional and consumer. At the hearings on the bill, spokesmen for medical, hospital, labor, farm, and civic groups backed the proposal. Particular credit goes to the professional groups, including the national hospital associations and the American Public Health Association, which spearheaded the planning for the program that the act now authorizes.

The act itself is testimony to the fact that the current conception of public health includes responsibility for the treatment and care of the individual. Before adequate health and medical care can be attained, well-equipped hospitals and health centers must be located throughout the country in proportion to need. More important still, they must be planned State by State and community by community with a view to meeting the total facility needs of each.

How great these needs are, Surgeon General Thomas Parran of the U. S. Public Health Service pointed out in his testimony at the hearings. He emphasized that, whereas some States have a higher ratio of hospital beds to population than others, many of these beds are substandard, and that in no State is every community adequately served. Of the more than 3,000 counties in the Nation, approximately 40 percent, serving some 15 million people, have no registered hospitals. While many of these counties which lack facilities are too small to support a full-fledged hospital, they could all profit from some type of health facility. As it is now, the best and most abundant hospital facilities are concentrated in the wealthiest States and metropolitan areas, while rural and poor areas have the least adequate hospital and related services.

Preliminary estimates indicate that general hospital beds should be increased by about 36 percent to bring them up to the ratio of 4½ beds per 1,000 population; beds for tuberculosis patients by about 68 percent to bring all States to the ratio of 2½ beds per death from tuberculosis; and beds for mental and nervous diseases by 43 percent to reach 5 per 1,000 population. Chronic disease hospitals and health centers need to be increased several fold, the former on the basis of 2 beds per 1,000 population and the latter on the basis of 1 per 20,000–30,000 population.

Before the war, the total estimated cost of providing these needed beds and facilities was approximately $4,000 million. Against these needs is the $1,125 million which will be available when all the Federal funds have been met by non-Federal funds. Even on the basis of prewar costs, as Dr. Parran recently pointed out, this expenditure would meet only about 37 percent of the costs of new facilities and 29 percent of new and replacement facilities combined. With the present cost of building approximately 50 percent higher than it was when the act was first considered, it is obvious that these appropriations, substantial as they are, can serve only fractionally the purpose of the act, namely, to provide hospital facilities for all the people.

Nevertheless, all groups concerned with a broad national health program consider the act a long step forward. Since its administration is the responsibility of the Surgeon General, it is significant to note his views on the future role of hospitals. He visualizes the hospital of the future as having a broader and more important function than in the past. It should

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