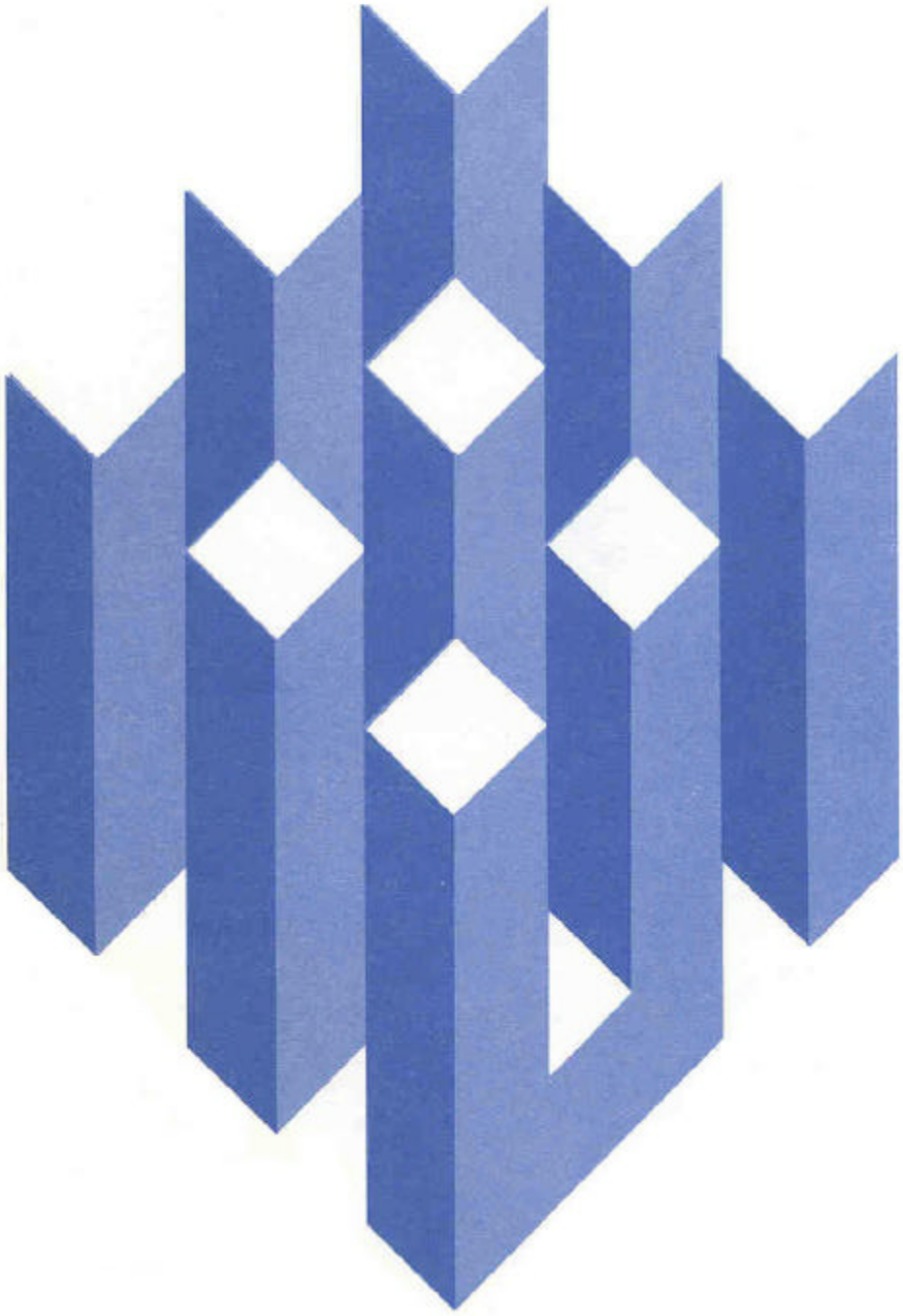
Application of the Unemployment Insurance System Work Test and Nonmonetary Eligibility Standards

Unemployment Insurance
Occasional Paper 85-3

U.S. Department of Labor
Employment and Training Administration



Application of the Unemployment Insurance System Work Test and Nonmonetary Eligibility Standards

Unemployment Insurance Service
Occasional Paper 85-3

U.S. Department of Labor
William E. Brock, Secretary

Employment and Training Administration
Roberts T. Jones,
Acting Deputy Assistant Secretary of Labor

Unemployment Insurance Service
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This report was prepared by Walter Corson, Senior Economist; Alan Hershey, Senior Policy Analyst; and Stuart Kerachsky, Senior Economist; with Paul Rynders, Research Analyst, and John Wichita, Researcher, all of Mathematica Policy Research. The research was sponsored by the Office of Strategic Planning and Policy Development of the Employment and Training Administration, U.S. Department of Labor, under Contract No. 20-55-82-13. Because researchers are encouraged to express their own viewpoints, the opinions offered in this document do not necessarily represent the official position or policy of the Department of Labor.

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ACKNOWLEDGMENTS

This report represents a truly collaborative effort between program administrators and researchers. William McGarrity, our project officer, deserves special recognition for initiating all the contacts and resolving the many problems that are naturally associated with a federal-state effort of this sort. Others in the Department of Labor who provided invaluable assistance include Wayne Zajac, Joseph Hight, Gene Biglin, and the late Edwin Kerley. Still others reviewed a draft of this report and provided numerous useful comments. Of course, this study would not have been possible without the considerable cooperation of UI program administrators in the states we visited, as well as their staff in state and local offices.

While Walter Corson, Alan Hershey, and I had primary responsibility for the authorship of this report, Paul Rynders and John Wichita shared in the analytical effort. Wichita designed most of the process analysis field procedures, and he and Rynders conducted the on-site analysis. David Stevens, of the University of Missouri, and David Zimmerman contributed their substantial expertise to the design and implementation of the analysis. Stevens also reviewed the draft report. Finally, MPR's excellent research support staff ensured that all stages of this project proceeded smoothly. Of course, the authors alone are responsible for any shortcomings of the report.

Stuart Kerachsky
Project Director

EXECUTIVE SUMMARY

BACKGROUND

The Unemployment Insurance (UI) system is a federal-state system designed primarily to provide earnings replacement for workers who lose their jobs through no fault of their own and who remain attached to the labor market. In all states, eligibility for UI benefits is based on two sets of criteria—initial monetary and nonmonetary qualification requirements, which are based on previous employment, and continuing eligibility conditions, which are exhibited through continuing attachment to the labor market. Much of the burden for the equitable and efficient operation of the system rests on the nonmonetary standards for both initial (i.e., separation) and continuing (i.e., nonseparation) eligibility, yet these standards, as they are applied, do not easily lend themselves to review or understanding.

The concept of initial nonmonetary eligibility for benefits is codified in each state's statement of negative disqualification actions, which include voluntary separation or quits, misconduct, involvement in labor disputes, and fraudulent misrepresentation. For such actions, disqualification leads to a nonentitlement period, which is fixed for some issues in some states and which is discretionary within limits in others. The concept of continuing eligibility depends on the presence of two positive conditions—the ability to work and the availability for work—and the absence of one negative action—a refusal to accept available (and generally specified as suitable) work. The absence of either of the first two continuing-eligibility conditions leads to benefit denial only for as long as the noncomplying status continues. Unwillingness to accept available suitable work leads to benefit denial for a specified period defined in each state's statutes. The process of identifying noncompliance with nonmonetary eligibility standards is called "eligibility determination."

This study investigates the influences of state laws, regulations, and procedures on nonmonetary eligibility. Our objective is to identify practices that are particularly effective in detecting ineligible claimants, given the variation in the definitions of ineligibility. To the extent that we succeed in establishing these "best practices," agencies may be able to monitor their procedures more effectively and possibly modify them to meet their own objectives. More specifically, the patterns observed in the analysis may suggest how certain practices can help state agencies (1) minimize the extent to which claimants violate nonmonetary eligibility rules and (2) maximize the ability of agencies to detect violations when they occur and to reduce or deny benefits accordingly.

STUDY DESIGN AND OVERVIEW

This study was designed with the perspective that administering the UI program is a complex undertaking: a wide range of legislative, regulatory, administrative, and personnel factors can potentially affect the ability of a state to ensure that UI claimants comply with the nonmonetary requirements in order to receive benefits, and that those who do not are denied benefits. As described above, several actions or inactions could lead to the violation of nonmonetary requirements and, hence, to benefit denial. They include voluntary quit, discharge for misconduct, inability to work or unavailability for work, and refusal of a job offer or referral. Our study considers each of these issues individually.

Our first approach for studying how various features of state programs affect nonmonetary eligibility was to use the extensive data sets already available in published form to evaluate statistically the relationship between each major category of nonmonetary eligibility, as measured by denial rates, and a set of variables that reflect easily identifiable provisions of state UI laws, quantifiable descriptors of the administration of nonmonetary eligibility rules, indicators of the generosity of state programs, and descriptors of the economy and various other aspects of each state. This regression analysis, based on quarterly state data covering the period from 1964 to 1981, points out several systematic relationships between the policy variables that describe the state UI programs and the rates at which claimants are disqualified for nonmonetary reasons. Nevertheless, the statistical analysis based on these published data left many questions unanswered: our limited ability to characterize state programs with available data meant that a great deal of the variation in denial rates by state could not be explained by the equations estimated with our model. This part of the study underscored the necessity of collecting primary data that would enable us to evaluate the relationship between program characteristics and nonmonetary eligibility in greater detail.

Our response was to conduct an "administrative," or "process," analysis in selected states. Our objective in this analysis was to investigate state policies and practices in greater detail than was possible with published data in order to (1) differentiate more clearly and precisely the variation in policies and administration across states, and (2) discover how the laws, regulations, and administrative practices that create "effective policy" affect patterns of nonmonetary eligibility.

To conduct the process analysis, project staff selected six states for intensive site visits, and collected data from relevant documents and through in-person interviews with key state and local program officials. State selection was guided by the statistical analysis to ensure that the study states represented an appropriate range of denial rates for each issue.

The process analysis was designed to gather information about the full range of factors that determine actual policy as implemented in the states. The data collection and analysis were divided into four topics. The first three described the stages of the determination process adopted by the states, and included (1) the effective nonmonetary eligibility requirements in each state, (2) the methods used by the states to detect determination issues, and (3) the fact-finding and determination decision-making process itself. The fourth topic explored a range of agency characteristics that might help explain why states adopted those procedures.

FINDINGS

Several specific patterns emerged from the analysis that should be of interest to those responsible for monitoring nonmonetary eligibility. They are summarized below under five key topic headings. Of course, all conclusions must remain somewhat tentative because of (1) the nature of what can and cannot be observed (e.g., we can observe denial rates but not the rate at which ineligible individuals are deterred from applying), (2) the inability to demonstrate causality clearly with process analysis, and (3) the relatively modest scale of this study.

1. The Importance of Issue Detection Relative to Fact-Finding and Adjudication

Given a set of eligibility requirements, we quite strongly conclude that the ability of a state to deny benefits to the ineligible population will depend on the effectiveness with which it detects determination issues, rather than on the consistency with which its determinations lead to denials. The frequency with which issues are detected is affected not only by eligibility policy, but also by a wide range of administrative guidelines and procedures that may vary from office to office in their application, and that may be adhered to closely or loosely depending upon available staff resources, the pressure of claimant traffic, and the level of agency management control. For a variety of reasons, the process of fact-finding and adjudication is much more administratively confined; hence, much less state-to-state variation occurs in the rate at which determinations lead to denials than in the determination rate. By implication, there is considerably more room for policy and management initiatives to improve the detection of determination issues than there is to improve the adjudication process itself.

2. Factors that Affect Success in Detecting Potential Eligibility Issues

For detecting separation issues, we would emphasize two important practices that seem to contribute to high determination rates. The first would be to initiate the determination process on the basis of information from claimants, employers, or the agency itself, rather than restricting acceptable sources for identifying particular issues. Low determination

rates for separation issues are often associated with rules that restrict which party may raise an issue. The second practice, which clearly pertains to the first, would be to insist upon obtaining simple factual information from employers about separation reasons. This practice would imply (1) that employers' responses about the separation reasons be obtained before initial claims are processed, and (2) that employers be asked for a factual statement about the circumstances surrounding separation, rather than whether they had any reason to question a claimant's eligibility. Where persistent follow-up is undertaken to obtain an employer's response, procedures should recognize the principle that it is the agency and not the employer which bears responsibility for protecting the integrity of the eligibility process.

Determination rates for nonseparation issues seem to pertain to three general factors that vary from state to state. First, it seems clear that a formal requirement which stipulates that claimants engage in their own active work search is a necessary foundation for effectively assessing their exposure to the labor market as a measure of their availability for work. A formal work-search requirement is necessary but not sufficient to ensure that availability and refusal issues be identified. The procedural definitions of evidence required to document adequate work search also seem to affect the determination rate. Two major options seem available: (1) to require a minimum number of weekly contacts with employers and to report them on claims cards, and (2) to prescribe the types of search efforts that are expected of claimants in their particular occupations, and periodically to review how well they are measuring up to such standards. Our process analysis indicated that either approach can be effective, but only to the extent that it is taken seriously.

Second, determination rates and, hence, denial rates also seem to depend on the purposefulness and frequency with which claimants' ongoing eligibility is questioned. One important aspect of this factor is that questions on claims cards should request simple factual statements from claimants, rather than to allow them to form subjective judgments about whether their behavior is within eligibility norms and to incorporate them in their answers. The other important aspect is the Eligibility Review Process (ERP). After the initial claim has been filed, ERP interviews often present the only routine opportunity for the agency to have personal contact with claimants. The ERP interviews should be scheduled relatively frequently, and they should entail a careful review of the extent to which a claimant is meeting the state's eligibility standards.

Finally, with respect to nonseparation issues, the manner in which ongoing claims reports are reviewed by UI staff also seems to be an important factor in the ability of states to detect issues. Ongoing claims reports should be reviewed rigorously and consistently in accordance with each state's rules on claimant behavior.

3. Significance of the Severity of Penalties Imposed for Denials

More severe penalties seem to affect the behavior of claimants and potential claimants. We know, for example, that the denial of benefits for the duration of the unemployment spell has a negative impact on denial rates for most issues. Such penalties may deter individuals from such actions as quitting a job or refusing a job offer. Moreover, more severe penalties may also be more likely to discourage individuals from applying if they suspect that their actions will render them ineligible for benefits.

The severity of penalties can also affect the UI program by influencing administrative behavior in the determination process: some evidence suggests that the option of milder penalties may increase the frequency with which agency staff deny benefits. However, although less severe penalties may lead to more denials, we do not recommend milder penalties as sound policy. First, they may simply encourage a greater number of applications from ineligible individuals. Second, at least to the extent that an agency has different degrees of violations (and penalties) to choose from, issues which warrant denial under more demanding standards may be inadequately pursued.

4. The Importance of Clear Policies and Procedures

In states that have more comprehensive and detailed written policies and procedures, the staff's understanding of state policy tends to be more accurate and more consistent. Detailed and specific policies tend to restrict the amount of discretion that can be exercised by claims staff in considering each claimant's case. To the extent that the clarity of defined policy is effectively communicated to line staff, its effect should be to increase the consistency with which similar cases are treated in the determination process.

5. Organization of the Fact-Finding and Adjudication Process

The first conclusion, already expressed earlier, is that a broad view should be taken of the types of information that justify inquiry and some form of determination. Identifying more issues, rather than simply trying to justify only those issues that stand a good chance of leading to denial, seems more likely to lead to the effective denial of a high percentage of truly ineligible cases. However, casting the broad net of potential issues certainly increases the workload imposed on staff who are responsible for conducting fact-finding and determinations.

Thus, the second conclusion is that agencies must obviously find some way to work effectively under the workload burdens imposed by high frequencies in the determination process. We observed two different approaches for doing so. First, by conducting some informal clarification and fact-finding before the formal determination process, some states were able to eliminate some issues before reaching the point at which a formal written decision and notification were necessary. This approach reduced

the workload to some extent by avoiding part of the work required in a formal determination. In the second approach, some states simply improved the efficiency with which they conducted the determination process. The former approach seems very often seemed to be associated with other practices that prevent valid issues from being identified. Thus, improving the efficiency of the determination process seems to represent a sounder course for dealing with resource problems than would efforts to avoid formalities of the determination procedure.

Finally, our observations in the states underscore the importance of maximizing the information available to the adjudicator responsible for making determination decisions. This factor is important for the sake of rendering informed decisions that promote confidence in the thoroughness and equitability of the determination process, and to avoid frequent recourse to the appeals process.

Some tension obviously exists between the goals of conducting determinations efficiently and maximizing the information that is developed through fact-finding. Insisting that employers and claimants be present for all fact-finding interviews in which both are relevant is not only infeasible but would also substantially increase the costs of the process and, in many cases, unnecessarily. Some states conduct fact-finding hearings by telephone or perform separate contacts to gather information from the parties involved. No extreme solutions are suggested. However, two concluding suggestions are offered. First, determination decision-making by staff who are not involved in fact-finding, using primarily written summaries of facts and without personal contact with the parties, may be counterproductive, leading to an increased number of appeals. Second, states should encourage relevant parties to participate in a determination whenever it appears that their interests are at stake, and that there is some chance that they have further information or rebuttals to offer.

EXTENSIONS OF THE RESEARCH

In the future, it might be useful to extend this research in three possible ways. The most obvious way would be to increase the scale of the study. While we have a great deal of confidence in our data collection and analysis, drawing generalizations from the study is somewhat limited by the number of states we could visit. What we found noteworthy about state policies and practices was often unique to an individual state. Thus, most of the connections we found between program characteristics and denial rates were based on an examination of one or perhaps two states, rather than on any strong patterns across many states. This limitation would be mitigated with a larger sample of states.

The second way in which this research could be extended more in a different direction from the first. This study has provided a wealth of basic information on effective nonmonetary eligibility practices, dispute the limitations just described. Rather than simply increasing the size of the study, a follow-up study could build on this information by attempting to focus more narrowly on documenting exemplary state programs. Much of

the screening could be undertaken with readily available information, including state laws and regulations. However, as demonstrated in this study, some on-site investigation would be required to explore effective practices fully. A variant of this would be to implement a demonstration in one or more sites that exhibited particularly promising standards and operational procedures. The result of such a study would provide a guide for state- or federally-initiated improvements in the defining and implementing nonmonetary eligibility standards.

A third direction for future research would be to focus on the behavior of actual or potential claimants. This study did entail contacting a small sample of claimants to attempt to learn about the administration of nonmonetary eligibility standards from their perspective. However, this effort represented only a minor part of the study. If this perspective were to be a major focus of a study, it would require an appropriately large sample, carefully developed data collection plans, and timely data collection.

I. INTRODUCTION

The system of state Unemployment Insurance (UI) programs provides financial assistance to insured workers who have recently been separated from their jobs (usually involuntarily) and who exhibit continuing attachment to the labor market. The UI system was established to provide insurance to those deprived of their jobs through no fault of their own. Thus, it was designed to provide benefits only for those persons who, if not for an inability to secure suitable employment, would be working and "earning their living." In order to fulfill this objective, the states' UI programs have specified both monetary and nonmonetary eligibility requirements with respect to work separation and work test (i.e., nonseparation) issues, through statutes, regulations, and administrative practices.

The state programs are of course part of the federal-state system, and their practices are thus constrained by federal standards. However, the major thrust of federal law as it applies to nonmonetary eligibility is to define and protect the rights of claimants as they pertain to their availability and ability to work, legitimate refusal of job offers, and fair hearings.[1] These federal standards allow states wide latitude in how to define their own programs. Accordingly, states vary widely in how they codify the formal UI programs in law and regulations, and, further, how they actually implement the programs.

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[1] For a description of federal standards, see U.S. Department of Labor, Comparison of State Unemployment Insurance Laws, Employment and Training Administration, Unemployment Insurance Service, Washington, D.C., 1978 and the series of semiannual revisions to 1983.

The role of states suggests that standards and procedures can vary considerably by state. The different standards and procedures that cause the wide cross-state variation in rates of nonmonetary eligibility (as measured largely by benefit denials) provide the motivation for this study. Observed variations both across states and over time raise questions about what factors influence nonmonetary eligibility. Our purpose in this study is to analyze the relationships between possibly influencing factors (i.e., specific state laws, regulations, and procedures) and denial rates. Essentially, we are attempting to identify practices that are particularly effective in detecting ineligible claimants, given the variation in the definitions of ineligibility. To the extent that we succeed in establishing these relationships, or "best practices," agencies may be able to monitor their procedures more effectively and possibly modify them to meet their objectives. If so, the already strained resources of state programs can be directed more efficiently to those persons who should be entitled to benefits.

A. BACKGROUND

The challenge to the states' Unemployment Insurance programs is to provide temporary partial earnings replacement for insured unemployed persons while implementing procedures to promote a defined level of attachment to the labor market. These objectives are pursued through the specific statutory and administrative requirements of each state's program. However, in all states, qualification for benefits is based on two sets of criteria—initial monetary and nonmonetary qualification requirements, and continuing eligibility conditions. Monetary qualification issues are not within the scope of this study; they are

discussed in this report only insofar as disqualification penalties for nonmonetary issues require reestablishing monetary qualification.

Initial nonmonetary qualification for benefits is codified in each state's statement of negative disqualifying actions. These include voluntary separation or quits, misconduct, involvement in labor disputes, and fraudulent misrepresentation. Disqualification leads to a nonentitlement period, which is fixed for some issues in some states and is discretionary within limits in others.

Continuing eligibility depends on the presence of two positive conditions--the availability for and the ability to work, and the absence of one negative action--a refusal to accept available (and generally specified as suitable) work. Absence of either of the first two conditions leads to ineligibility only if the noncomplying status continues (with a one-week minimum period of ineligibility). Unwillingness to accept available suitable work leads to disqualification for a specified period defined in each state's statutes. Compliance with all of these conditions is required for continuing benefit entitlement.

The process of identifying noncompliance with either initial (i.e., separation) or continuing (i.e., nonseparation) eligibility standards is called "eligibility determination." The result of this process, which includes fact-finding about the claimant and any other interested party, is a decision about whether or not to deny benefits, depending upon the merits of the case and the interpretation of the rules. In some instances, informal fact-finding may precede this formal determination process, although no claimant can be denied benefits without undergoing the determination process. In addition, any determination can be appealed to

separate appeals units within the state. In most states, there are actually two levels of appeals possible, although most appeals go no further than the first level (or "lower authority").

As we have indicated, the federal standards with respect to nonmonetary eligibility (generally contained within the Federal Unemployment Tax Act) are minimal, and eligibility standards are established by statutes in each state. These statutes are supplemented in each state with administrative regulations and procedures that guide local office staff in implementing the program in what is hoped to be an efficient and equitable manner.

B. OVERVIEW OF THE REPORT

We approached this study of the influences of state laws, regulations, and procedures on nonmonetary eligibility in two ways. The first was to use the extensive data already available in published form to evaluate the relationship between two sets of variables statistically. One set consists of the four categories of denial rates used as outcome variables—voluntary leaves or quits, misconduct, not able nor available, and refusal of suitable work. The other set—the explanatory variables in the model—consists of variables that reflect easily identifiable provisions of state UI laws, quantifiable descriptors of the administration of nonmonetary eligibility rules, generosity of state programs, and descriptors of the economy and various other aspects of each state. As described in Chapter II, a thorough regression analysis based on quarterly state data covering the period 1964 through 1981 revealed relationships that are consistent with our prior hypotheses. Nevertheless, this statistical analysis leaves many questions unanswered. In particular, our

limited ability to characterize state programs with available data means that a great deal of the variation in denial rates by state remains unexplained by the equations estimated with our model.

The first part of the study established several important links between UI program characteristics and denial rates, but only to the degree that it pointed out the need for (and direction of) further research. Specifically, it was necessary to collect primary data that would enable us to evaluate the relationship between program characteristics and nonmonetary eligibility in greater detail. Thus, the second way in which we approached the study was to conduct an "administrative," or "process," analysis in selected states. Our objective in the process analysis was to investigate state policies and practices in greater detail than was possible with published data in order to (1) differentiate more clearly and precisely the variation in policies and administration across states, and (2) discover how the laws, regulations, and administrative practices that create the "effective policy" affect patterns of nonmonetary eligibility and denial rates.

To carry out the process analysis, project staff selected six states for intensive site visits, and collected data from relevant documents and through in-person interviews with key state and local program officials. This effort was designed to gather information about the full range of factors that determine actual policy as implemented in the states, and to do so by examining the UI program in each state from a variety of perspectives. Chapter III describes the process analysis methodology.

Generalization from a study with only six judgmentally selected states is difficult at best, although the states were selected carefully to ensure that the important program models were represented. Nevertheless, this portion of the study did produce a rich body of information that enables us to distinguish among different approaches for administering UI programs, as well as the key statutory, regulatory, and procedural features of these different approaches. Although using this methodology to determine the relationships between these features and the differences in nonmonetary eligibility requires a high degree of judgment, we feel that we have identified several key relationships and have obtained some evidence to suggest some others. Chapter IV presents a basic description of state program characterisics, which constitute the "raw" data of the process analysis. Chapter V then returns to the main focus of this study to evaluate what we have learned from the process analysis about the effects of state policies and procedures on nonmonetary eligibility.

II. STATISTICAL EVIDENCE ON THE DETERMINANTS OF DENIAL RATES

In this chapter we begin by reviewing data on state denial rates for nonmonetary separation-from-work and nonseparation issues. As we indicated in the introduction, these data illustrate the wide range of denial rates across states for the various types of nonmonetary eligibility issues. The data also illustrate the wide disparity in the rate at which states make determinations and the rate at which determinations lead to denials. As a first step in exploring the reasons for these wide disparities, we examine the degree to which the variance in denial rates can be explained by available aggregate measures of state characteristics. This statistical analysis of denial rates provides some insights as to why state denial rates do in fact vary, and it also serves as a guide for selecting states for the in-depth analysis of state laws, regulations, and procedures.

The remainder of this chapter consists of four sections: (1) a discussion of state denial-rate data, (2) a discussion of the factors that affect the denial rates that are examined with the statistical analysis, (3) a discussion of the data used in this analysis, and (4) a discussion of the analytical results.

A. NONMONETARY ISSUE DENIAL RATES

Table II.1 presents data on denial rates for nonmonetary issues by state for 1982. These data are reported separately for four major eligibility issues. Two of these issues, quits and misconduct, are separation-from-work issues, and the denial rates are reported as denials per 1,000 new spells of insured unemployment. The two remaining

TABLE II.1

NONMONETARY DENIAL RATES BY STATE, 1982[a]
(State Rank In Parentheses)

State	Separation Issues		Nonseparation Issues	
	Quit	Misconduct	Able and Available	Refusal of Suitable Work
Alabama	24.9 (44)	22.9 (23)	3.6 (34)	0.1 (46)
Alaska	93.7 (5)	22.3 (25)	5.3 (22)	0.3 (16)
Arizona	68.0 (14)	42.2 (12)	10.2 (4)	0.3 (20)
Arkansas	187.1 (2)	27.2 (18)	5.7 (21)	0.3 (20)
California	42.5 (24)	22.7 (24)	6.4 (16)	0.2 (27)
Colorado	139.2 (3)	66.6 (4)	7.4 (10)	0.3 (20)
Connecticut	42.1 (27)	14.2 (44)	4.6 (28)	0.4 (6)
Delaware	24.1 (45)	25.5 (19)	1.9 (44)	0.2 (35)
District of Columbia	78.0 (11)	103.1 (1)	1.1 (50)	0.0 (50)
Florida	97.2 (4)	65.7 (5)	9.0 (6)	0.3 (9)
Georgia	39.2 (32)	41.4 (13)	5.2 (24)	0.1 (44)
Hawaii	52.3 (17)	23.5 (21)	6.1 (17)	0.4 (7)
Idaho	42.1 (26)	20.2 (30)	5.3 (23)	0.3 (9)
Illinois	40.0 (29)	23.4 (22)	4.5 (30)	0.2 (33)
Indiana	37.2 (36)	22.0 (28)	1.6 (48)	0.2 (28)
Iowa	49.1 (21)	22.0 (28)	6.8 (15)	0.2 (23)
Kansas	53.1 (16)	32.4 (15)	14.5 (3)	0.3 (15)
Kentucky	31.1 (39)	19.3 (35)	3.8 (33)	0.1 (43)
Louisiana	88.9 (7)	52.5 (8)	3.2 (35)	0.2 (36)
Maine	39.4 (31)	12.0 (47)	7.0 (12)	0.5 (2)
Maryland	54.9 (15)	46.1 (10)	2.3 (41)	0.3 (13)
Massachusetts	30.9 (40)	17.9 (38)	2.2 (43)	0.1 (48)
Michigan	35.0 (38)	15.7 (40)	4.0 (32)	0.2 (36)
Minnesota	38.7 (34)	22.0 (27)	6.9 (14)	0.2 (30)
Mississippi	40.4 (28)	35.6 (14)	2.8 (38)	0.2 (30)
Missouri	49.9 (20)	42.6 (11)	9.5 (5)	0.3 (17)
Montana	69.6 (13)	19.9 (32)	6.0 (18)	0.2 (28)
Nebraska	224.5 (1)	75.4 (2)	15.3 (2)	0.3 (12)
Nevada	89.2 (6)	61.1 (7)	6.0 (18)	0.4 (4)
New Hampshire	50.9 (18)	19.9 (31)	5.0 (25)	0.3 (8)
New Jersey	39.4 (30)	30.0 (16)	6.9 (13)	0.2 (25)
New Mexico	80.7 (10)	51.0 (9)	2.8 (39)	0.1 (39)
New York	30.3 (41)	22.1 (26)	7.8 (7)	0.3 (9)
North Carolina	15.0 (50)	11.8 (48)	1.8 (46)	0.2 (34)
North Dakota	74.0 (12)	19.5 (33)	3.1 (36)	0.3 (13)
Ohio	23.5 (46)	24.9 (20)	4.7 (27)	0.1 (41)
Oklahoma	86.5 (8)	63.0 (6)	1.9 (44)	0.4 (4)
Oregon	36.6 (37)	17.4 (39)	4.9 (26)	0.3 (17)
Pennsylvania	12.9 (51)	10.0 (50)	2.2 (42)	0.1 (45)
Rhode Island	27.4 (42)	15.1 (42)	4.3 (31)	0.3 (17)
South Carolina	16.7 (47)	27.9 (17)	3.0 (37)	0.1 (46)
South Dakota	39.1 (33)	7.9 (51)	21.9 (1)	0.7 (1)
Tennessee	15.7 (49)	15.4 (41)	0.6 (51)	0.1 (41)
Texas	82.1 (9)	70.6 (3)	7.6 (9)	0.2 (25)
Utah	44.9 (23)	15.0 (43)	7.7 (8)	0.2 (36)
Vermont	50.5 (19)	18.6 (37)	1.8 (46)	0.2 (23)
Virginia	26.0 (43)	19.1 (36)	7.1 (11)	0.5 (3)
Washington	37.9 (35)	11.7 (49)	4.6 (29)	0.0 (49)
West Virginia	42.3 (25)	19.3 (34)	2.5 (40)	0.1 (39)
Wisconsin	16.6 (48)	13.8 (45)	1.4 (49)	0.2 (30)
Wyoming	46.9 (22)	13.6 (46)	5.8 (20)	0.0 (51)
National Average Per State	54.9	30.1	5.4	0.2
(Standard Deviation)	(40.1)	(20.3)	(3.9)	(0.1)

SOURCE: Unpublished tables provided by the Unemployment Insurance Services, Employment and Training Administration.

[a]Separation issue rates are reported per 1,000 new spells of insured unemployment, and nonseparation issue rates are reported per 1,000 claimant contacts.

eligibility issues, able and available and refusal of suitable work, are on-going eligibility issues, and the denial rates are reported as denials per 1,000 claimant contacts.[1] These data show a wide range of denial rates across states. For example, while the average state denial rate for voluntary leaves was 54.9 per 1,000 new spells of insured unemployment in 1982, the rate ranged from a high of 224.5 in Nebraska to a low of 12.9 in Pennsylvania. The ten states with the highest rates all had voluntary-leave denial rates above twice the national average. A wide range also occurs with respect to misconduct issues (the denial rate for which ranging from 103.1 to 7.9), and it occurs to a slightly lesser extent for the non-separation issues (the denial rate for able and available issues ranges from 21.9 to 0.6, and from 0.7 to 0.0 for refusal of suitable work).

Data presented in Table II.2 provide some information about the process that leads to these denial rates. Data are presented on the determination rate for separation and nonseparation issues (i.e., on the rate at which nonmonetary issues are investigated). This rate multiplied by the percentage of determinations that lead to a denial (also reported) produces the denial rate. These data show the very different rankings of states when determination rates are compared with denial rates. For separation reasons, for example, South Dakota ranks 22nd for the determination rate but 43rd for the denial rate, because of its extremely low proportion of determinations that lead to denials. The opposite situation occurs in Nevada for nonseparation reasons, ranking 31st for

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[1] Each weekly UI benefit claim is counted as a claimant contact.

TABLE IL.2

DETERMINATION AND DENIAL RATES BY STATE, 1982[a]
(State Rank in Parentheses)

State	Separation Issues						Nonseparation Issues					
	Determination Rate		Denials as % of Determinations		Denial Rate		Determination Rate		Denials as % of Determinations		Denial Rate	
Alabama	62.5	(47)	76.7	(4)	47.9	(44)	25.9	(15)	93.5	(1)	24.2	(4)
Alaska	196.9	(13)	61.2	(18)	120.5	(11)	15.6	(29)	78.4	(12)	12.2	(19)
Arizona	221.3	(10)	49.8	(39)	110.2	(12)	39.6	(3)	58.0	(27)	23.0	(5)
Arkansas	253.5	(9)	84.5	(1)	214.3	(2)	13.6	(35)	76.4	(14)	10.4	(26)
California	141.6	(21)	46.0	(42)	65.2	(25)	19.7	(24)	56.6	(29)	11.2	(22)
Colorado	264.3	(6)	77.9	(3)	205.8	(3)	38.0	(4)	77.3	(13)	29.4	(3)
Connecticut	125.6	(27)	46.0	(43)	57.8	(33)	26.8	(13)	53.9	(33)	14.5	(13)
Delaware	74.2	(45)	72.7	(7)	53.9	(36)	5.9	(49)	81.9	(7)	4.8	(42)
District of Columbia	341.0	(2)	53.7	(35)	183.2	(4)	7.0	(45)	36.9	(46)	2.6	(51)
Florida	294.4	(3)	55.3	(28)	162.9	(5)	37.0	(5)	43.7	(42)	16.2	(10)
Georgia	149.2	(20)	54.0	(33)	80.6	(18)	16.8	(26)	40.9	(45)	6.9	(37)
Hawaii	162.4	(16)	46.7	(41)	75.9	(20)	25.2	(16)	54.7	(32)	13.8	(16)
Idaho	93.9	(38)	66.4	(11)	62.4	(27)	16.6	(27)	84.2	(5)	14.0	(15)
Illinois	120.6	(29)	52.6	(37)	63.4	(26)	23.9	(17)	43.2	(44)	10.3	(27)
Indiana	103.0	(33)	57.8	(22)	59.6	(32)	8.7	(40)	75.7	(16)	6.6	(38)
Iowa	127.8	(25)	55.6	(27)	71.1	(22)	14.3	(33)	85.4	(4)	12.2	(20)
Kansas	159.4	(17)	54.4	(31)	86.7	(17)	22.3	(19)	71.2	(19)	15.9	(11)
Kentucky	81.4	(42)	61.9	(17)	50.4	(39)	7.2	(42)	56.2	(31)	4.0	(48)
Louisiana	256.5	(8)	55.1	(29)	141.4	(9)	10.3	(38)	67.3	(23)	6.9	(36)
Maine	93.9	(38)	54.8	(30)	51.4	(37)	29.1	(12)	64.6	(25)	18.8	(7)
Maryland	129.6	(24)	78.7	(2)	102.0	(13)	7.1	(43)	83.2	(6)	5.9	(39)
Massachusetts	103.9	(32)	47.0	(40)	48.8	(41)	22.9	(18)	31.0	(50)	7.1	(34)
Michigan	89.1	(41)	57.6	(24)	51.3	(38)	20.1	(23)	48.9	(37)	9.8	(30)
Minnesota	132.9	(23)	45.7	(44)	60.7	(29)	30.8	(9)	61.7	(26)	19.0	(6)
Mississippi	99.7	(34)	76.2	(5)	76.0	(19)	14.4	(32)	51.5	(34)	7.4	(32)
Missouri	157.3	(18)	58.8	(20)	92.5	(15)	19.1	(25)	85.8	(3)	16.4	(9)
Montana	202.0	(12)	44.3	(46)	89.5	(16)	9.7	(39)	74.6	(18)	7.3	(33)
Nebraska	434.3	(1)	69.1	(8)	300.0	(1)	67.4	(1)	56.7	(28)	38.2	(1)
Nevada	279.9	(5)	53.7	(34)	150.4	(7)	14.6	(31)	91.2	(2)	13.3	(17)
New Hampshire	116.6	(31)	61.0	(19)	71.1	(21)	13.1	(36)	80.7	(10)	10.6	(25)
New Jersey	120.3	(30)	57.7	(23)	69.4	(23)	29.8	(11)	35.6	(48)	10.6	(24)
New Mexico	209.3	(11)	62.9	(14)	131.7	(10)	6.8	(46)	81.3	(8)	5.5	(40)
New York	124.8	(28)	44.1	(47)	55.0	(34)	57.8	(2)	31.5	(49)	18.2	(8)
North Carolina	49.5	(49)	54.2	(32)	26.8	(50)	4.1	(51)	68.2	(21)	2.8	(50)
North Dakota	166.7	(15)	56.1	(25)	93.5	(14)	15.5	(30)	45.3	(40)	7.0	(35)
Ohio	77.7	(44)	62.4	(16)	48.5	(42)	26.3	(14)	37.9	(46)	10.0	(29)
Oklahoma	257.3	(7)	58.1	(21)	149.6	(8)	6.7	(47)	68.5	(20)	4.6	(45)
Oregon	126.6	(26)	42.7	(48)	54.1	(35)	32.6	(8)	43.3	(43)	14.1	(14)
Pennsylvania	33.8	(51)	67.8	(9)	22.9	(51)	30.0	(10)	15.6	(51)	4.7	(44)
Rhode Island	93.2	(40)	45.6	(45)	42.4	(47)	20.7	(22)	44.0	(41)	9.1	(31)
South Carolina	66.2	(46)	67.3	(10)	44.6	(46)	7.0	(44)	67.7	(22)	4.8	(43)
South Dakota	137.7	(22)	35.0	(50)	48.2	(43)	37.0	(6)	81.1	(9)	30.0	(2)
Tennessee	49.8	(48)	62.6	(15)	31.2	(48)	5.8	(50)	75.8	(15)	4.4	(46)
Texas	287.7	(4)	53.2	(36)	153.2	(6)	22.3	(20)	56.4	(30)	12.6	(18)
Utah	175.0	(14)	34.5	(51)	60.3	(31)	32.9	(7)	47.2	(39)	15.5	(12)
Vermont	95.0	(36)	72.7	(6)	69.1	(24)	6.5	(48)	65.6	(24)	4.3	(47)
Virginia	80.7	(43)	55.8	(26)	45.1	(45)	13.9	(34)	79.5	(11)	11.0	(23)
Washington	97.9	(35)	50.7	(38)	49.6	(40)	20.9	(21)	49.0	(36)	10.3	(28)
West Virginia	95.0	(37)	65.1	(13)	61.8	(28)	7.5	(41)	51.5	(35)	3.9	(49)
Wisconsin	46.1	(50)	66.0	(12)	30.4	(49)	11.5	(37)	47.3	(38)	5.5	(41)
Wyoming	155.1	(19)	39.0	(49)	60.5	(30)	15.6	(28)	74.8	(17)	11.7	(21)
National Average Per State	149.3		57.4		85.4		20.3		61.4		11.6	
(Standard Deviation)	(83.6)		(11.3)		(55.0)		(13.1)		(18.2)		(7.4)	

SOURCE: Unpublished tables provided by the Unemployment Insurance Service, Employment and Training Administration.

[a] Separation issue rates are reported per 1,000 new spells of insured unemployment and nonseparation issues rates are reported per 1,000 claimant contacts.

the determination rate and 17th for the denial rate, although the change in ranking is not as large as with the first example.

In general, however, states with high or low denial rates for separation or nonseparation issues have correspondingly high or low determination rates. With respect to separation issues, for example, nine of the top ten states that rank highest for the determination rate also rank in the top ten for the denial rate. For nonseparation issues, the corresponding figure is seven out of ten, with two of the three remaining states ranking within the top fifteen. This finding is mirrored for the states that rank lowest in determination and denial rates, suggesting that factors which affect how many determinations are made may be more important in explaining denial rates than factors which affect the rate at which determinations lead to denials (although factors which affect the latter rate may of course also affect the determination rate). For example, state laws that explicitly define reasons for the denial of benefits for able and available issues will probably lead to relatively high rates at which determinations lead to denials, but they will probably also increase the number of determinations made because potential issues will be more apparent to UI staff. A number of examples of how such explanatory factors as state laws appear to affect denial rates are discussed in the later chapters in our detailed evaluation of state laws and procedures.

B. DETERMINANTS OF DENIAL RATES

State denial rates for nonmonetary issues are affected by factors that are both internal to the UI system (such as state laws, regulations, and administrative procedures) and primarily external to the UI system (such as the unemployment rate and the characteristics of the insured

unemployed). Of the two, the internal UI factors are subject to greater control by UI administrators; thus, understanding their influence on denial rates is of particular interest to policymakers. However, many of these factors, such as those pertaining to regulations and administrative procedures, are difficult to define and measure, and no data base exists that describes them for all states. For these reasons, we address the influence of these factors on denial rates in the subsequent chapters that are based on data collected in our site visits; in this chapter, we focus on internal factors as represented by variables that describe state UI laws pertaining to nonmonetary eligibility.

A number of variables that describe these state laws have been defined on the basis of information reported in Comparison of State Unemployment Insurance Laws, the U.S. Department of Labor publication cited in Chapter I. While these variables abstract substantially from the complexities of state laws, they do identify some potentially important differences across states, and, as reported below, some of these variables define useful distinctions that could affect denial rates. These variables are:

> Disqualification for Voluntary Leaving is for Duration. This variable is set equal to "1" if the disqualification for voluntary leaving is for the duration of the unemployment period. It is set to "0" otherwise.
>
> Good Cause Restricted. This variable is set equal to "1" if "good cause" for voluntarily leaving work is restricted to good cause pertaining to the employment. It is set to "0" otherwise.
>
> Disqualification for Misconduct is for Duration. This variable is set equal to "1" if the disqualification for misconduct is for the duration of the unemployment period. It is set to "0" otherwise.

Suitable Work. This variable is set equal to "1" if the state requires the claimant to be able and available for suitable work, and "0" otherwise. This requirement is more lenient than one requiring the availability for work but not specifying "suitable" or "usual" work.

Usual Occupation. This variable is set equal to "1" if the state requires the individual to be able and available for work in the usual occupation or for an occupation in which the individual is reasonably suited by prior training or experience, and "0" otherwise. This variable and the suitable work variable are mutually exclusive.

Actively Seeking Work. This variable is set equal to "1" if the state requires the individual to actively seek work, as evidence of being available. It is set to "0" otherwise.

Refusal of Suitable Work is for Duration. This variable is set equal to "1" if the disqualification for refusal of suitable work is for the duration of unemployment. It is set to "0" otherwise.

For the statistical analysis presented in this chapter, we examined separately the four denial rates listed in Table II.1 (i.e., the denial rates for quits, misconduct, able and available, and refusal of suitable work). It was expected that each of the UI state law variables described above would affect one denial rate but not the others. For example, the duration disqualification for quits was expected to affect the denial rate for quits, but not the misconduct, able and available, or refusal-of-suitable-work rates. Moreover, since each denial rate is expressed as a proportion (denials divided by contacts) in which generally both the numerator and denominator are affected by the state law, we first hypothesized how each law would affect each component of the denial rate. We then differentiated and simplified to determine the overall expected effect.

As an example, consider the effect of the duration disqualification on the denial rate for quits:

Denial Rate: $R = ap_qQ/(p_1L + p_qQ)$

where:

L	= number laid off
Q	= number quit
p_1, p_q	= proportion who apply
a	= proportion of quitters who applied for UI but are denied benefits

In addition, we expect that $dp_q/dt < 0$ and $dQ/dt < 0$, where t is the variable indicating that the denial is for the duration of the unemployment spell. That is, we expect that when the denial for quits is for the duration, both the proportion of quitters who apply for UI and the overall number of individuals who quit jobs are reduced. Note that we also are assuming that t does not affect a (i.e., that the percentage of determinations that are denied is not directly affected by the law). Under these assumptions:

$$\frac{dR}{dt} = \frac{(p_1L + p_qQ)\,(aQdp_q/dt + ap_q dQ/dt) - ap_qQ(Qdp_q/dt + p_q dQ/dt)}{(p_1L + p_qQ)^2}$$

$$= \frac{a(Qdp_q/dt + p_q dQ/dt)(p_1L)}{(p_1L - p_qQ)^2}.$$

Since $dp_q/dt < 0$ and $dQ/dt < 0$ and all other terms are positive, $dR/dt < 0$.

This exercise shows that the expected effect of the strong denial provision is to reduce the denial rate because it acts as a deterrent to quitting and to applying for benefits. Thus, careful analysis reveals that the expected effect may not take what at first would seem to be the obvious

direction. Similar results have been derived for the other state law variables on their expected effects on the various denial rates. A summary of these expected effects is reported in Table II.3.

We also considered another set of internal UI variables that may affect denial rates—namely, variables that describe the administration of nonmonetary eligibility determinations. For this examination, we used variables that describe both the amount of time spent on administering each determination and the timeliness and quality of these determinations. We had no specific expectations about the overall effect of these variables. For example, states that spend a greater amount of time on each determination might spend that additional time by uncovering potential issues (which would raise denial rates), or they might spend the time by ensuring that no extenuating circumstances surround the potential issue (which would probably lower denial rates).

Several other variables included in our analysis are defined by the interaction between state laws that characterize potential UI benefits and external economic factors that affect the potential UI caseload. These variables are the average wage-replacement rate (average weekly benefits divided by average weekly earnings), average potential duration, and a dummy variable that indicates periods in which extended benefits (EB) are available. Since higher values of each of these variables are indicators of a more generous UI program, our hypothesis was that each of these variables would have a positive impact on the proportion of "ineligible individuals" who would attempt to collect UI benefits. Thus, we expect

TABLE II.3

EXPECTED EFFECTS OF STATE LAWS ON DENIAL RATES

State Law Variable	Denial for: Quits	Misconduct	Not Able and Available	Refusal of Suitable Work
Disqualification for Quitting is for Duration	-	n.a.	n.a.	n.a.
Good Cause Restricted	+	n.a.	n.a.	n.a.
Disqualification for Misconduct is for Duration	n.a.	-	n.a.	n.a.
Suitable Work	n.a.	n.a.	-	-
Usual Work	n.a.	n.a.	-	-
Actively Seeking	n.a.	n.a.	+	n.a.
Disqualification for Refusing Suitable Work is for Duration	n.a.	n.a.	n.a.	-

n.a. = not applicable.

these variables to have a positive impact on denial rates for all the denial measures.

Another set of variables included in our statistical analysis describes the state of the economy (based on the insured unemployment rate) and the composition of the unemployed (based on the percent in construction, the percent in manufacturing, the percent male, and the percent age 25 and under and age 55 and over). We hypothesized that a higher unemployment rate would reduce denial rates, since, for example, there would be fewer quits and fewer job offers that could be refused. We also expected that the proportion of claimants in construction and manufacturing would have a negative effect on denial rates because of the high rates of unionization and the high proportion of temporary layoffs that characterize these industries. In many states, claimants in unions are exempt from work-search requirements if they normally obtain work through the union (this is particularly true in the construction industry). A high incidence of temporary layoffs would presumably also reduce the proportion of quits among the unemployed. We also considered unionization more directly by using the proportion of the unionized work force in each state. For the demographic variables, we expected that the proportion who were male would have a negative impact on denials, and that higher proportions of both younger and older claimants would raise denial rates. These hypotheses were based on the assumption that groups which are usually considered to have more marginal attachments to the labor force than other groups would have a greater likelihood of benefit denials.

A final variable that may influence denial rates is the general philosophy of each state toward UI claimants. For example, states may

differ in the degree to which they emphasize either the claimants' or the employers' rights in issues pertaining to voluntary leaving. They might also differ in the degree to which they believe that the careful monitoring of work-search activities represents a necessary and appropriate activity of the UI agency. In an attempt to examine this issue on the general philosophy of each state, we used as a proxy variable the average score of each state's Congressional delegation on the AFL-CIO index that rates voting records. It was expected that higher ratings would be correlated with lower denial rates.

C. THE DATA

The main data used to examine the impact on denial rates of the factors discussed above were quarterly data by state (50 states and the District of Columbia) for the period 1964 through 1981. The bulk of the data were derived from reports on claims activities submitted by the states to DOL. In addition, the variables that describe state laws were constructed from the tables that describe state laws as published in Comparison of State UI Laws throughout the observation period. Thus, these variables describe not only the current state laws but also how they have changed over time.

Several data items were not available for the entire time period. For example, data on the ages of claimants were available only for the 1969 to 1981 period; hence, they were used only when the models were estimated over this shorter time period. The data on program administration, the degree of work-force unionization, and the AFL-CIO rating of the Congressional delegation were collected for a single year (1981), and were

used to examine the state-by-state differences that remained after completing the analysis based on the full 18-year data set.

Table II.4 reports the means and standard deviations for all the variables used in the analysis. If the data for the four denial rates are compared with the data presented in Table II.1, they show that the denial rates were generally lower in 1982 than for the 1964-1981 period. This finding applied particularly to the quit denial rate (which in 1982 was about 65 percent of the 1964-1981 average) and to the refusal-of-suitable-work denial rate (which was 0.8 for the entire period and 0.2 for 1982).[1] These differences may be due to the high unemployment experienced in 1982, since more detailed annual data show that the 1982 decrease in denial rates was a recent phenomenon that did not show up as part of a trend in the 1964-1981 data used for our analysis.

A final observation should be made about the data in Table II.4: the variables which describe the state laws indicate that, over the 1964-1981 period, denial for quits lasted for the duration of the unemployment spell about 60 percent of the time. More detailed data by time period show the substantial change that occurred in the law over the period of observation. At the beginning of the time period, about half the states stipulated this provision; at the end of the time period, over 80 percent of the states did so. Similar changes occurred for both the misconduct and refusal-of-suitable-work laws (i.e., the proportion of states that disqualify the claimant for the duration of unemployment

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[1] The 1964-1981 set of data represents the average per quarter, while the 1982 set represent the average over an entire year. Averages based on quarterly versus annual data account for some differences among the rates, but they cannot account for all of the difference.

TABLE II.4

MEANS AND STANDARD DEVIATIONS OF VARIABLES [a] USED IN THE UI NONMONETARY DENIAL RATE ANALYSIS

Variable	Mean	Standard Deviation
Dependent Variables		
Quit Denial Rate	86.21	65.29
Misconduct Denial Rate	30.09	22.06
Not Able or Available Denial Rate	8.19	5.31
Refusal of Suitable Work Denial Rate	0.80	0.67
Independent Variables		
Denial for Voluntary Leaving for Duration	0.61	0.49
Good Cause Restricted	0.53	0.50
Denial for Misconduct for Duration	0.48	0.50
Suitable Work	0.19	0.39
Usual Work	0.16	0.37
Actively Seeking	0.62	0.48
Denial for Refusing Suitable Work for Duration	0.43	0.50
Wage Replacement Rate	0.35	0.05
Average Potential Duration	23.90	2.67
Extended Benefits Dummy Variable	0.33	0.47
Insured Unemployment Rate	3.50	2.08
Percent Insured Unemployed in Construction	18.35	10.13
Percent Insured Unemployed in Manufacturing	36.51	16.21
Percent Insured Unemployed Who Are Men	59.22	10.78
Percent Insured Unemployed Age 55 and Over[b]	16.53	6.46
Percent Insured Unemployed Age 25 and Under[b]	20.04	5.36
Minutes Per Unit for Separation Issue Administration[c]	67.61	15.44
Minutes Per Unit for Nonseparation Issue Administration[c]	38.94	5.24
Percent of Separation Issue Determinations Done Within Time Standard[c]	67.88	19.93
Percent of Nonseparation Issue Determinations Done Within Time Standard[c]	78.73	14.81
Percent of Separation Issue Determinations Judged to be of Acceptable Quality[c]	86.52	10.76
Percent of Nonseparation Issue Determinations Judged to be of Acceptable Quality[c]	90.98	10.14
Percent of Labor Force Unionized[c]	21.36	8.51
Mean Congressional AFL-CIO Rating[c]	45.35	19.89

SOURCE: Most variables were collected from reports filed by the states with DOL on the operation of the UI system and published in UI Statistics. Data on recent time periods have not been published, and they were collected directly from the Unemployment Insurance Service. The data on administrative time and the timeliness and quality of determinations were also collected from the UIS. Finally, the AFL-CIO rating variable was constructed from data reported in Michael Barone and Grant Ujifusa, The Almanac of American Politics, 1984, National Journal, Washington, D.C., 1983.

[a] Unless noted the means and standard deviations are for 51 states for the 1964-1981 period.

[b] Variables available for the 1969-1981 period.

[c] Variables available for 1981.

increased over the time period). For the other state-law variables, the proportion of states that restrict good cause to job-related reasons and that had an active work-search requirement also increased over the time period, while the suitable-and-usual-work requirements showed relatively little change.

D. ECONOMETRIC RESULTS

The above hypotheses about the determinants of nonmonetary denial rates were examined by estimating linear models, with the four denial rates representing dependent variables and with state laws, other UI characteristics, and external economic factors representing independent variables. The models were estimated with quarterly data by state for the 1964-1981 period for variables for which data were available for this entire period. Furthermore, models were estimated to examine the influence of variables for which more limited data were available (see below). In addition to the independent variables discussed previously, we used dummy variables for each quarter to control for seasonal effects (the fourth-quarter dummy was dropped for estimation). We also used a dummy variable for each state (Pennsylvania being the excluded state) to control for the remaining state-by-state differences and to provide a convenient way to compare states.[1] Finally, the error term was assumed to exhibit first

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[1] This type of model is known as a "fixed-effect" model, in which it is assumed that there is a constant, fixed effect for each state. A variance-component, or random-effects, model was also estimated, and the results were similar.

order autocorrelation within each state.[1] As compared with the ordinary least squares estimates, this estimation method had a relatively minor impact on most of the coefficients, although it did reduce the estimated impact of the unemployment rate (the coefficient became closer to zero), and made the coefficient of the wage-replacement rate more negative (see the discussion below).

The results of our main regressions are reported in Tables II.5 and II.6, the latter of which reports the state dummy coefficients and the regression-adjusted state ranks. The results show that some state laws on nonmonetary-eligibility issues appear to have a significant impact on denial rates. In particular, the denial of benefits for the duration of the unemployment spell has a statistically significant negative impact on the quit and refusal-of-suitable-work denial rates, as we hypothesized. For misconduct, the corresponding coefficient has a negative sign, but it is not statistically significant. The point estimates of the magnitudes of the effect of these variables are also sizeable. For quits, for example, the coefficient is -15.97, the absolute value of which is about 20 percent of the mean value for this denial rate. For refusal of suitable work, the coefficient is similar in magnitude relative to the mean value for this denial rate. For the remaining state-law variables, only the coefficient estimated for the good-cause variable is statistically significant, and it also has the expected sign. One possible problem with the other variables

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[1] The Durbin-Watson statistics from the initial ordinary least squares regressions supported the assumption of positive autocorrelation (all of the values of this test statistic were well below the lower bound). The estimated value of rho ranged from 0.60 in the misconduct equation to 0.76 in the refusal-of-suitable-work equation.

TABLE II.5

DENIAL RATE ECONOMETRIC ESTIMATES[a]
1964-1981
(t-statistics in parentheses)

State	Dependent Variable: Voluntary Leaving	Misconduct	Able and Available	Refusal of Suitable Work
Denial for Voluntary Leaving is for Duration	-15.97*	--	--	--
	(-4.46)	--	--	--
Good Cause	24.55*	--	--	--
	(4.51)			
Denial for Misconduct is for Duration	--	-0.86	--	--
	--	(-0.79)	--	--
Suitable Work	--	--	1.19	0.152
	--	--	(0.71)	(0.71)
Usual Occupation	--	--	-0.61	-0.123
	--	--	(-0.49)	(-0.80)
Actively Seeking	--	--	-0.32	--
	--	--	(-0.59)	--
Denial for Refusal of Suitable Work is for Duration	--	--	--	-0.173*
	--	--	--	(-3.42)
Average Potential Duration	-2.25*	-0.84*	-0.01	0.007
	(-4.37)	(-4.89)	(0.14)	(0.99)
Wage Replacement Ratio	-21.11	-35.54*	-6.97*	-0.766*
	(-0.90)	(-4.55)	(-3.46)	(-2.41)
EB Dummy	7.11*	2.59*	-0.03	0.023
	(4.42)	(4.81)	(0.22)	(1.05)
Insured Unemployment Rate	-1.08*	0.12	-0.29*	-0.073*
	(-2.35)	(0.74)	(-7.47)	(-11.72)
Percent Insured Unemployed in Construction	-0.00	-0.10*	-0.03*	-0.004*
	(-0.04)	(-2.97)	(-4.34)	(-3.18)
Percent Insured Unemployed in Manufacturing	-0.72	-0.33*	-0.03*	0.001
	(-10.37)	(-14.14)	(-5.02)	(1.32)
Percent Men	-0.67*	-0.10*	-0.07*	-0.011*
	(-7.59)	(-3.34	(-10.42)	(-9.35)
Jan-Mar Dummy	5.72*	2.18*	0.49*	0.090*
	(3.80)	(4.25)	(3.99)	(4.39)
April-June Dummy	17.18*	8.22*	0.75*	0.208*
	(15.92)	(22.17)	(8.77)	(14.24)
July-Sept Dummy	19.99*	6.96*	1.41*	0.091*
	(19.85)	(20.11)	(17.63)	(6.68)
Constant	179.26*	67.86*	17.16*	1.708*
	(9.46)	(10.82)	(6.93)	(4.95)
R^2 statistic	.45	0.48	.39	.38
F statistic	132.50	166.61	80.20	70.72
Degrees of Freedom	(63,3609)	(61,3610)	(64,3608)	(64,3608)

*Significant at .05 level for two-tailed test.

[a] Coefficients for the state dummy variables are reported in Table II.6.

TABLE II.6

STATE DUMMY COEFFICIENTS AND REGRESSION-ADJUSTED RANK
(1964-1981)

State	Dependent Variable: Voluntary Leaving		Misconduct		Able and Available		Refusal of Suitable Work	
Alabama	14.15	(23)	6.76	(23)	-3.84	(42)	-0.48	(51)
Alaska	-14.18	(46)	-17.93*	(51)	-0.63	(29)	0.18	(19)
Arizona	23.92	(16)	10.62*	(16)	6.53*	(2)	0.17	(20)
Arkansas	3.56	(31)	7.52	(20)	-3.35*	(39)	-0.22	(41)
California	10.47	(24)	-0.74	(37)	2.67	(10)	-0.06	(26)
Colorado	107.06*	(2)	52.39*	(2)	-0.08	(23)	0.13	(23)
Connecticut	-19.23	(48)	-1.01	(38)	0.42	(21)	0.07	(25)
Delaware	-28.43*	(51)	6.97	(21)	-4.94*	(46)	-0.02	(30)
District of Columbia	14.43	(22)	35.63*	(6)	0.75	(20)	-0.44	(49)
Florida	0.76	(33)	7.56	(19)	-1.14	(31)	-0.04	(31)
Georgia	74.29*	(6)	38.48*	(4)	-1.51	(34)	-0.39	(47)
Hawaii	27.43*	(13)	4.98	(27)	1.80	(12)	0.32	(14)
Idaho	1.66	(32)	-3.05	(40)	1.27	(17)	0.72*	(3)
Illinois	-5.81	(39)	2.82	(31)	5.26*	(5)	-0.05	(32)
Indiana	18.10	(19)	4.50	(28)	-4.35	(44)	-0.10	(36)
Iowa	74.23*	(7)	15.48*	(14)	-0.08	(24)	0.11	(24)
Kansas	7.40	(29)	18.30*	(10)	7.69*	(1)	0.17	(20)
Kentucky	10.17	(26)	6.47	(25)	-4.32*	(43)	-0.20	(40)
Louisiana	10.42	(25)	15.96*	(13)	-3.66	(41)	0.01	(28)
Maine	-12.03	(44)	-6.22	(45)	1.43	(15)	0.70*	(4)
Maryland	47.57*	(9)	22.16*	(9)	-1.80	(37)	1.27*	(1)
Massachusetts	-10.01	(42)	-0.36	(35)	-4.41	(45)	-0.35	(46)
Michigan	25.73	(14)	2.42	(32)	2.48	(11)	0.30	(15)
Minnesota	63.84*	(8)	10.43*	(17)	1.53	(14)	0.41	(8)
Mississippi	-0.76	(35)	15.22*	(15)	-2.88	(38)	0.20	(17)
Missouri	15.52	(21)	17.46*	(11)	-1.77	(35)	-0.05	(32)
Montana	36.23*	(10)	-6.93	(46)	-0.28	(27)	0.04	(27)
Nebraska	233.99*	(1)	39.89*	(3)	4.22	(7)	-0.46	(50)
Nevada	7.41	(28)	6.51	(24)	-0.12	(25)	0.47	(6)
New Hampshire	-4.24	(37)	4.35	(29)	1.60	(13)	0.67*	(5)
New Jersey	-24.05	(50)	0.47	(33)	1.38	(16)	-0.29	(44)
New Mexico	31.74	(11)	28.45*	(8)	-1.05	(30)	-0.26	(43)
New York	-2.57	(36)	-8.33*	(47)	5.93*	(4)	0.19	(18)
North Carolina	-15.58	(47)	6.12	(26)	-5.57*	(49)	0.17	(20)
North Dakota	24.74*	(15)	-9.14*	(48)	-1.20	(36)	0.27	(16)
Ohio	16.65	(20)	16.89*	(12)	-0.26	(26)	-0.11	(37)
Oklahoma	98.30*	(3)	31.01*	(7)	-3.58	(40)	0.33	(12)
Oregon	19.74	(18)	-3.92	(42)	-1.14	(32)	-0.24	(42)
Pennsylvania	0.00	(34)	0.00	(34)	0.00	(22)	0.00	(29)
Rhode Island	-6.61	(40)	-4.27	(43)	-0.62	(28)	0.40	(9)
South Carolina	85.61*	(4)	36.89*	(5)	-1.71	(35)	-0.19	(39)
South Dakota	4.91	(30)	-12.53*	(49)	3.05	(8)	-0.16	(38)
Tennessee	-20.02	(49)	9.85*	(18)	-6.91*	(50)	-0.29	(44)
Texas	77.69*	(5)	62.68*	(1)	1.17	(19)	0.42	(7)
Utah	30.10*	(12)	-3.06	(41)	3.04	(9)	0.74*	(2)
Vermont	22.77	(17)	-0.74	(36)	-5.42*	(48)	0.33	(12)
Virginia	-4.27	(38)	3.82	(30)	6.40*	(3)	0.34	(11)
Washington	-10.87	(43)	-14.79*	(50)	0.96	(18)	-0.07	(35)
West Virginia	10.08	(27)	-2.27	(39)	-1.43	(33)	-0.05	(32)
Wisconsin	-12.39	(45)	6.90	(22)	-5.04*	(47)	0.36	(10)
Wyoming	-6.93	(41)	-5.57	(44)	4.45	(6)	-0.39	(47)

*Statistically significant at the .05 level for a two-tailed test.

is that the state laws which are recorded in Comparison of State UI Laws and used to define these variables do not appear to accurately reflect actual state practices, as we discovered in our site visits (see the discussion in Chapter IV). To the extent this is true, it may explain why coefficients estimated for these variables are not significant in the regressions, but why the coefficient estimated for the denial for the duration variables, which are easier to define, are in fact significant in practice.

Coefficients estimated for other UI variables in the equations (average potential duration, the EB dummy, and the wage-replacement ratio) are statistically significant in some of the regressions, but the signs of the coefficients are not always in the expected direction--that is, more generous programs appear to have a negative, rather than a positive, impact on denials. We have no explanation for these results, but we believe that the wage-replacement rate coefficients in particular should be discounted, since they were quite sensitive to the method used for estimation.

The remaining results reported in Table II.5 are generally consistent with our prior expectations. The insured unemployment rate has a negative impact on denial rates, and the magnitude of its estimated impact is particularly large (relative to its mean) with respect to the refusal-of-suitable-work denial rate, as one might expect. Characteristics of claimants, such as the percent of the insured unemployed in construction and manufacturing and the percent who are male, generally have negative and significant effects on denial rates. In addition, the age variables, which were not available for the entire time period, were used in regressions restricted to the shorter time period. These regressions showed that a

higher percentage of younger workers (under age 25) tended to decrease denial rates for nonseparation issues, contrary to our hypothesis. For separation issues, the results for younger workers were not significant. The results for older workers (over age 54) varied in sign, with higher proportions of older workers reducing the misconduct denial rates and increasing the refusal-of-suitable-work denial rates. The results for the other rates were not statistically significant.

The results for the state coefficients in Table II.6 show that many states had denial rates that were significantly different from Pennsylvania, the excluded state.[1] Hence, while the other variables included in the regressions explain some cross-state variation in denial rates, much of the variation that still exists is state-specific, or at least cannot be explained by the variables included in the above regressions. In an attempt to examine the impact of several other variables for which no data were available for the entire time period, we regressed the state coefficients (which are the average residual for each state relative to the excluded state) on several variables that described UI administrative factors, the degree of labor-force unionization, and the state Congressional delegations' average ranking on the AFL-CIO rating of legislative votes.[2] For this analysis we also combined the separation issues and the nonseparation issues in the event that some cross-state differences were purely definitional (e.g., individual cases having been

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[1] F-tests for the significance of the set of state dummies as a whole showed that they were significant at the 0.01 level in all the denial-rate regressions.

[2] All these variables were defined for a one-year period, 1981.

assigned to the quit category in one state and to misconduct in another). The results of this analysis were generally disappointing: none of the administrative variables provided any explanatory power. However, given our previous analysis, which suggested that states with high determination rates also had high denial rates, this finding is not surprising. In other words, how well or quickly determinations are made probably has little impact on denial rates. Instead, mechanisms for detecting potential issues may be more important. Finally, our variables on unionization and the AFL-CIO rating were highly correlated, and we could not satisfactorily distinguish between their effects. When we used these variables separately in the regressions, they had negative and statistically significant coefficients for the separation-issue residuals, and the AFL-CIO rating but not the unionization variable had a negative, significant coefficient in the nonseparation-issue regression.[1] These findings provide some support for the hypothesis that the political views of each state, particularly as they pertain to labor issues, have an impact on denial rates.

[1] The coefficients were significant at the .10 level for a two-tailed test.

III. PROCESS ANALYSIS METHODOLOGY

Administering the Unemployment Insurance program is a complex undertaking, which clearly extends to the determination of nonmonetary eligibility. A wide range of legislative, regulatory, administrative, and personnel factors can potentially affect a state's ability to ensure that UI claimants comply with nonmonetary requirements in order to receive benefits and that those who do not are denied benefits.

The regression analysis whose results were reported in the previous chapter represents a first step in explaining what factors contribute to the wide variation in the rates at which states deny benefits to UI claimants for four nonmonetary reasons—voluntary quit, discharge for misconduct, inability to work or unavailability for work, and refusal of a job offer or referral. However, as was recognized in the design of this study, the regression analysis has certain inevitable shortcomings that limit the extent to which it can explain the impact of state UI agency operations on observed denial rates.

The major shortcoming of the regression analysis is that the readily available data on program administration are limited in their extent, type, and precision of coverage. In the analysis, three dummy variables represent the severity of penalties imposed for violating nonmonetary eligibility rules, and four others represent the latitude allowed to claimants in choosing to seek or accept work or leave a job. All of these variables reduce variations among the states to binary values, which oversimplifies the true variety of state penalties for the violations and requirements imposed on claimants. Most seriously, perhaps, the values

of the variables used in the regression analysis are drawn only from the state laws that pertain to unemployment compensation. However, the effective rules governing UI nonmonetary eligibility are a product of state laws, elaborative regulations, formal policy and procedural memoranda and handbooks, and informal rules of thumb observed in the UI agencies. States with apparently similar legislative provisions may in fact be applying quite different rules because of the substantial divergence in regulatory provisions and practice. Conversely, states with apparent differences in legislative language may actually be observing very similar nonmonetary rules, because they have placed different levels of substantive detail in their legislation. To the extent that this is true, regression analysis variables that describe state rules inadequately represent the effective policies.

Despite these limitations, the regression analysis suggests several systematic relationships between the policy variables that describe the state UI programs and the rates at which claimants are disqualified for nonmonetary reasons. With respect to voluntary quits and refusals of work, states that impose disqualifications for the duration of unemployment, as opposed to some fixed term, tend to have lower denial rates. States which restrict their definitions of good cause for leaving a job to reasons pertaining directly to the employment situation tend to have higher rates of denial for voluntary leaves relative to states which allow more personal reasons as a valid justification. However, these regression results do not suggest the mechanisms by which these differences in state policies might affect denial outcomes.

Thus, the process-analysis component of this study is designed to investigate state policy and administrative practices in greater detail, in an attempt to (1) describe more clearly and precisely the differences among states with respect to policy and administration, and (2) discover how the laws, regulations, and administrative practices which create the "effective policy" affect patterns of nonmonetary eligibility and denial rates. This chapter of the project report describes the methodology used in the process analysis.

To carry out the process analysis, project staff selected six states for intensive site visits, and collected data in those states from relevant documents and personal interviews in state and UI local offices. The purpose of the process analysis design was to gather information about the full range of factors that determine the policies actually implemented, and to do so by examining the UI system in each state from a variety of perspectives. The remaining sections of this chapter describe the process by which the sites were selected, the data that were to be collected during the site visits, the data collection approach, and the limitations of this methodology.

We chose six states for the study, which represented both the maximum number feasible within the resources available for the study and the number we felt was necessary in order to draw some generalizations about the implications of alternative statutes, policies, and procedures. However, the number does suggest certain limitations of the study. In particular, the sample is not large enough to enable us to select a set of states and sites within states that would truly be representative of the national pattern of nonmonetary eligibility standards. Accordingly, we

were unable to conduct an analysis that would provide statistically reliable conclusions about the standards. Instead, the in-depth process analysis that focuses on six judgmentally-selected states enables us to point out patterns of behavior that emerge from the analysis, but which may require further scrutiny.

A. SITE SELECTION

Site selection for the process analysis occurred in three stages. First, MPR developed a set of criteria for selecting states in consultation with the Department of Labor, and carried out the analysis required to derive a list of recommended states. Second, the list of recommended states was revised because the peculiarities of some of the recommended states' programs might have limited our ability to generalize about UI programs in other states. Third, based on these first two stages, a final list of states was obtained, criteria were defined for selecting local sites within the states, and arrangements were made for selecting the local sites with state officials.

Prior to discussing site selection, it should be noted that obtaining the cooperation of the states and the participation of individual respondents during the site visits required assurances of anonymity. Part of the information we wanted to collect in the states pertained to problems in program administration, departures in administrative practice from policies prescribed in legislation or regulation, and problems with the UI agency in terms of personnel, structure, or resources. Given the sensitivity of the issues, and the relative ease with which the relevant agency respondents could be identified from even a generic identification of their roles, we found it necessary to guarantee that not only individual

respondents but also the participating states remain unidentified in the process analysis report. By necessity, the discussion of site selection in this chapter, and a discussion of the data collected and the conclusions reached in later chapters, must be kept somewhat more general and less specific than would otherwise be the case. Despite this limitation, we have attempted to be as clear as possible about how site selection fits in with the research design, and about the effects of state-level policies and implementation decisions on important program outcomes.

1. Site Selection Criteria and Site Recommendations

The first criterion used to select states was the extent to which actual nonmonetary denial rates differed from rates predicted by the regression model described in the previous chapter. Since the purpose of the process analysis was to attempt to explain state-to-state variation in denial rates that was left unexplained in the regression analysis, we chose to focus the process analysis on states in which actual denial rates diverged considerably from what the regression model predicted. To implement this criterion, we first calculated the regression-based predictions for each of the four denial-rate dependent variables for all states in 1981, the last year for which we then had state performance data. These predictions are based on the regression coefficients estimated for the full 1964-1981 period (see Section D of Chapter II) and on state program characteristics and external economic variables for 1981. We then calculated the difference between the actual denial rate in 1981 (of each type for each state) and the predicted rate. For each of the denial-rate variables, states were then ranked according to the size of these differences, from the most positive difference (i.e., in which the actual

rate exceeded the predicted rate by the greatest amount) to the most negative difference (i.e., in which the predicted rate exceeded the actual rate by the greatest amount). The states that were considered for selection fell within the top or bottom quarters of this rank ordering for any of the dependent variables, with preference given to states that fell more consistently within the top or bottom quarters across the four denial categories.

To arrive at an initial list of states, we applied an additional set of criteria. First, we verified the robustness of the ranking of states for each type of denial rate by deriving alternative rankings based on (1) differences between actual and predicted values for the entire 1964-1981 period and (2) the actual 1981 denial rates. Second, to generate some geographic diversity, we attempted to use DOL region as a stratifying factor. Third, we considered a number of factors that might have indicated whether some states were experiencing extraordinary pressures on the UI system of quite different magnitudes than most other states and, hence, should have been excluded from the sample. Such factors included the local and state economic climate, the UI claim load, and the rate of increase in claims filed over the past several years. Third, we examined the basic experience-rating criteria used by the states with respect to firms, so as not to include states that had very unusual practices. Finally, we placed some priority on including states that represented a high to low range of denial rates and a variety of legislative provisions ranging from what could loosely be termed "liberal" (less demanding on claimants) to "stringent" (more demanding requirements and penalties for claimants).

After reviewing these selection criteria, we selected twenty states for further consideration. These could be characterized as having large positive or negative differences between predicted and actual denial rates for both types of separation issues (quits and misconducts) and both types of nonseparation issues (able/available and refusal of suitable work). For each state, large positive differences occurred with respect to separation and nonseparation issues, large negative differences occurred with respect to each, or a combination of both large positive and negative differences occurred. In addition, we attempted to pair states that had roughly opposite denial-rate patterns, but that were reasonably similar otherwise.

2. Revision of Recommended Site List and Characteristics of Selected States

Officials in the Department of Labor reviewed the initially selected states, and the list was subsequently revised. Some states on the original list were deleted because, for instance, they (1) were too small and were thus unrepresentative of the typical state experience, (2) had a unique legal provision concerning work-search activity, (3) differentially defined the method for counting separation-related denials relative to the vast majority of other states (which would pose difficulties in cross-state comparisons), and (4) had recently amended laws governing key nonmonetary eligibility procedures. After these deletions, five states were added to the list--states that had been excluded from the initial list because they were in geographic areas already represented in that list. The final list contained twelve states--six designated as primary sample states on the basis of our criteria, and six designated as a back-up sample. Half of each sample consisted of states that showed generally large positive

differences between actual and predicted denial rates, and half consisted of states that showed generally large negative differences.

The final step in state selection was to gain their cooperation. Three of the six primary sample states agreed to cooperate in the study, as did three of four secondary sample states that were contacted. Thus, 60 percent of the states contacted agreed to cooperate, with refusals concentrated in states with generally low denial rates (three of the four). The problem of selection bias associated with the refusals raises some concern about the generalizability of conclusions reached in the process analysis.

As we have stated, the identity of the six states selected must remain confidential in this report; however, it is possible to provide some characteristics about them. The states exhibited a range of circumstances with respect to the divergence of the actual denial rates from regression-based predicted denial rates. For instance, in two states, actual denials greatly exceeded the predicted rates for two types of denials; in another state, there was a large positive difference for one type of denial, and a large negative difference for another. Further, two states exhibited large negative differences for two types of denials; and one state exhibited a large negative difference for one type of denial. Generally, those states in which actual denial rates greatly exceeded their predicted rates also ranked high among the states in actual denial rates, and states which exhibited large negative differences also ranged in the lowest quintiles for all four types of denial rates.

The selected states also represent a fair degree of geographic diversity. The sites include one western state, one southern state, two midwestern states, and two northeastern states.

3. Selection of Local Sites

In addition to collecting documents and conducting interviews with persons responsible for administering the UI system at the state level, the research design called for a similar effort in two local offices—one located in an urban area and one in a rural area. The local offices were selected in cooperation with state officials once a state's participation in the study was assured. We sought local offices that exhibited a pattern of denials for nonmonetary eligibility issues that was broadly similar to that of the state as a whole. We attempted to screen out offices that knowledgeable state officials thought were exceptionally good or bad in areas pertaining to nonmonetary eligibility, that were undergoing a transition in their operations, or that had unusual claims loads (e.g., a high proportion of interstate claims or seasonal layoffs).

B. DESCRIPTION OF RESEARCH DATA

The process analysis design called for collecting and using information on four broad sets of factors that, it was hypothesized, could affect the rates at which claimants were denied benefits for nonmonetary reasons: the regulatory definition of the UI program; the characteristics of the operational system which implements legislative and regulatory policy; characteristics of the personnel who staff the UI agency; and external economic and political factors which could affect agency and individual staff behavior.

1. Regulatory Context

The process analysis data collection focused primarily on the substance, importance, and use of UI regulations. First, the relationship between statutes and regulations can be important. In states with fairly detailed and specific legislation, it might be expected that regulations would very closely reflect the apparent intent of the legislation. In other states, however, where statutes provide an incomplete definition of the UI program, the substance of the regulations may suggest a policy direction that is felt to differ from the legislation in many respects, or they may provide a clear policy direction which is absent in the law. Thus, an analysis of the net effect of legislation and regulation in defining the strictness of requirements imposed on claimants and the severity of penalties for violating eligibility requirements represents an important step toward improving the distinctions among state programs incorporated in the regression analysis.

The importance and use of UI regulations were to be assessed on the basis of the process analysis data. Examination of the regulations themselves could reveal their volume and detail, and comparisons between the regulations and statutes could indicate the extent to which the burden of policy definition affects regulatory language and the underlying agency decision process as opposed to the legislative process. The specificity and detail of the regulations were also of interest since they determine the extent to which the regulatory definition can be used as a basis for controlling the consistency of policy implementation. States with very specific and detailed regulations could rely on them as procedural guidelines and use them as training materials, thus promoting uniform

implementation of policy. States with very brief or very inspecific regulations could be expected to rely more heavily on interpretive memoranda or bureaucratic rules of thumb and tradition to define and enforce policy at the local level.

2. Characteristics of the Operational System

With any given policy on nonmonetary eligibility, it can be expected that the UI agency's ability to implement the policy and enforce associated rules can affect observed denial rates. A variety of agency characteristics were thus included in the data collection plan. First, we wanted to examine the formal organizational structure under which the UI program operates, including such factors as the linkages between UI and employment service staffs, the nature of state and local coordination, the mechanisms defined for conveying policy information and interpretations from policy staff to line staff and for monitoring performance, and the manner in which the organizational structure might contribute to or detract from managerial control in general. Also of interest were the procedures used at the local level to carry out the functions by which nonmonetary eligibility policy is executed: how determination issues and potential issues are detected, how information concerning claimant behavior is reviewed and assessed, and how information on questionable situations is used to prompt a later examination and possible definition of determination issues. These procedures define the roles and responsibilities not only of claimants and employers but also of the agency. Together, the organizational structure and local-office procedures define the processes of detection, fact-finding, and determination, which constitute the essential components of enforcement.

3. Personnel

The characteristics of agency staff involved in applying UI policy were also included in the process analysis data collection plan, because of their possible impact on the thoroughness and consistency with which UI policy is implemented. First, we were interested in the preparation of line staff for their jobs: the educational level of claims interviewers and adjudicators, experience in a specific job or in a variety of relevant jobs they might have held, and the type and amount of job-specific training they receive. We were also interested in any information that might indicate the attitudes of staff towards the policy guidelines that they were asked to adhere to, as a possible measure of underlying support for policy goals. Finally, as part of our site visits, we were interested in indications of the consistency or inconsistency with which line staff understood and interpreted the policies they applied.

4. External Factors

Although the regression analysis included certain variables that describe each state's economy and the demographic characteristics of the unemployed population, we also focused some attention in the process analysis data collection on the external political and economic factors which might enhance our understanding of the development and application of a state's nonmonetary eligibility policies. No systematic attempt was made to collect quantitative data, but efforts were made in site interviews to obtain respondents' interpretations of the manner in which external factors might be affecting their agency's operations. Of particular interest were such factors as the unemployment rate at the state and local levels, the industrial composition of the economy and the significance of employment

patterns, the types of job skills and experience found among the claimant population, and the possible impact of political pressure groups (e.g., unions or chambers of commerce) on state policy and its application.

5. Process Analysis Data Priorities

The order in which these categories of process data have been presented also represents in general terms the relative priorities assigned to them in this study. These priorities reflect the importance and usefulness of each of the broad topics in refining the information represented by the program-related variables in the regression analysis. Details on UI regulations and the operational system of procedures and organizational methods used to implement them enhance the regression variables most directly. Staff characteristics and external factors, on the other hand, may pertain only indirectly to the program variables in the regression analysis to the extent that they may also have some effect on administrative effectiveness or on the demands placed on the UI system.

The priorities also reflect a judgment about what types of information are most appropriately collected in extensive site interviews, and they represent the best use of the limited resources available for the process analysis component of the project. In general, we focused primarily on obtaining respondents' interpretations of policies and procedures, rather than on obtaining precise objective data, which are best collected by other means. Consequently, for instance, we devoted little attention to collecting systematic data on the educational levels or experience of staff, demographic statistics, or objective data which described agency rates for determinations, denials, appeals, or other processes. To the extent that project resources allowed us to collect such

data, they were collected for the regression analysis and incorporated in that aspect of the project.

C. DATA COLLECTION METHODS

Data were collected from three sources in each of the six sites: relevant policy and procedural documents; agency personnel; and UI claimants.

A critical first step in each site study was to conduct a detailed examination of state statutes, regulations, and documents that described agency operations, including handbooks, organizational charts, and public information brochures. Statutes and regulations were obtained before the site visits whenever possible, so that project staff could develop their understanding of the basic policy framework and identify issues that would be emphasized in site interviews.

The most extensive data collection effort entailed a series of interviews conducted with agency officials and staff in each site.[1] Variations in program roles created some differences across states in the number of interviews and the titles of respondents. Our general objective in all states, however, was to interview individuals at the state level who were familiar with state UI law and regulations and with overall state program management. At the local level, we wanted to interview respondents who were familiar with the operational interpretation of state policy, the details of the adjudication process, local coordination between UI and employment service staff, and the intake and claims processes.

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[1]The instrument used in interviews with agency staff is attached as Appendix A.

Site visits were conducted between May and September 1983, and e lasted approximately four days. Site visits typically included interviews with three or four state office respondents over the course of two days. The respondents included those whose functions entailed the overall management of the UI benefits and employment service units, supervision over the adjudication process, and supervision of local office operations. Local office interviews typically required one full day in each of the two offices selected in each state. In the local offices, our primary objective was to conduct detailed in-depth interviews with those persons who were the most knowledgeable about the nonmonetary determination process, employment service operations, and general UI claims processing. The selection of respondents depended largely on the complexity of the supervisory structure in the local office. In larger offices, our primary respondents were the chief of the adjudications staff and the employment service manager. In smaller offices, we interviewed the office director if that person had a detailed knowledge of the determination process. In all of the local offices, we also interviewed other staff who were particularly knowledgeable about aspects of the determination process or claims processing, so as to supplement information obtained from the primary respondents.

To complement the information obtained from local office staff, MPR project staff also examined a small number of case records which described nonmonetary determinations in the previous year. These records were examined to improve our understanding of the manner in which decisions are documented and to determine how closely individual decisions reflected the policies and procedures described by program documents and agency staff.

A third source of data for the process analysis consisted of a small set of interviews conducted with UI claimants who had gone through a nonmonetary determination in the previous year. However, this data collection effort contributed very little to the process analysis. The design of the project called for conducting about ten claimant interviews by telephone in each state, a sample size that clearly could not provide any assurance that the responses would be representative of the general population of claimants who had experienced determinations. Nevertheless, it seemed that such interviews might yield some insights which would help us interpret other information obtained for the process analysis. In the end, however, the interviews were of limited value to this study for a number of reasons. First, the limited resources available for claimant data collection precluded a very extensive effort. Since the address information of sample members was quite old, the search for current telephone numbers proved difficult. Complicating this situation was the fact that a significant portion of the rural sample in some states simply had no telephone service. In the end, we completed fewer interviews than even the small number we hoped to complete. Moreover, the specific events we asked the respondents to comment on (i.e., a specific determination and/or appeal) often occurred so far in the past that the respondents could not provide as much detailed information as we hoped for. If information from claimants were to represent a central component of a study, it is clear that a much larger and more timely data collection effort would be necessary.

D. STRENGTHS AND LIMITATIONS OF THE PROCESS ANALYSIS METHODOLOGY

The process analysis approach has proved to be extremely valuable in enhancing our understanding of the factors that contribute to variations in nonmonetary denial rates. The methodology described in this chapter allows project staff to cover a wide range of information of potential interest and importance, placing emphasis in each site on those factors that seem most relevant to outcome patterns.

Along with these advantages, of course, are certain limitations imposed by the methodology itself. The intensive effort required in each site limited our study to six states. Reliable patterns of relationships between regulatory and administrative factors and denial rates are therefore difficult to establish. In fact, the relationship between cause and effect is likely to be peculiar to each state. We can hope to identify a variety of program features that seem to affect outcomes, but not to confirm the impact of particular features across states.

Another problem encountered in applying this methodology is that although a wealth of information can be gathered, only some of it can be organized in ways that will yield insights into the research issues of interest. We have found, for instance, that an examination of state regulations and the operational characteristics of state agencies has contributed most to our understanding of determination outcomes, but that the information we obtained about external factors and staff characteristics was largely difficult to compare across states and to use as a basis for drawing any causal inferences.

The approach used to collect most of the site information (i.e., interviews with agency personnel) also has certain limitations. On certain

topics, such as the interpretation of regulations and the definition of procedures used in local offices, staff perceptions provide direct evidence of the types of variations in UI administration that might be expected to influence denial rates. However, staff comments about certain statistical patterns of claimant behavior or agency operations must be treated much more cautiously. Such comments represent attempts to provide objective quantitative data and can prompt the investigation of available statistical data, but, without verification, they cannot be used as valid evidence for the process analysis. Thus, given the lack of resources for detailed agency studies, our analysis placed less emphasis on certain impressions or speculations offered by respondents.

The requirement that we preserve the anonymity of the participating states has also imposed something of a limitation on the study. Data must be presented with some intentional reduction in their specificity.

Despite these limitations, however, the process analysis has helped us establish some clear patterns of variation among the states, and to identify the ways in which these variations affect denial rates. Chapter IV describes the determination process and the range of variation observed in the major aspects of that process. Chapter V then presents our interpretations of the relationships between the characteristics of the determination process and denial rates.

IV. THE DETERMINATION PROCESS: STATE CHARACTERISTICS

A three-stage process leads to the denial of UI benefits for nonmonetary reasons. The initial stage entails imposing the actual nonmonetary eligibility requirements for the receipt of benefits, which define the difference between claimants who should be considered eligible if they filed for benefits and those who should be denied benefits. To effect the denial of benefits, the UI agency must first identify potential determination issues. Thus, the second stage entails a set of procedures by which the agency detects situations that must be investigated and adjudicated. Finally, the third stage entails the process by which the agency assembles information on identified determination issues, considers the facts, and formulates a determination decision. The cumulative effect of these three stages determines the observed rates of nonmonetary denials.

To understand the variations in denial rates across states, we must examine each of these stages in the determination process individually. At one stage, a state may appear to pose stringent requirements for claimants, yet, at another stage, rules or procedures may be quite tolerant of a wide range of claimant situations and behavior. The six states chosen for the process analysis clearly illustrate the importance of determination rates as factors in overall denial rates, as well as the variability in determination rates. Table IV.1 presents the national quintile ranking of the six states for the frequency of determinations and the overall denial rate.[1] As pointed out in Chapter II, even where states have very high

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[1] To derive the quintiles, we ranked all 50 states plus the District of Columbia for each determination and denial rate. We then divided each ranking list into five parts for states 1-10, 11-20, 21-30, 31-40, and 41-51.

TABLE IV.1

COMPONENTS OF 1982 NONMONETARY DENIAL RATES
(Quintile Ranking Among All States)

	Determinations Per 1,000 Contacts[a]				Denials as Percent of Determinations				Denials per 1,000 Contacts			
	Quit	Misconduct	Able/ Available	Job Refusal	Quit	Misconduct	Able/ Available	Job Refusal	Quit	Misconduct	Able/ Available	Job Refusal
State 1	2	1	1	2	5	4	3	4	2	2	1	2
State 2	2	3	4	2	4	4	1	4	3	3	2	3
State 3	3	3	5	4	1	1	1	1	2	1	5	2
State 4	5	5	5	3	1	4	1	5	5	5	5	4
State 5	5	5	1	5	4	1	5	2	5	5	5	5
State 6	5	5	4	3	3	1	5	3	5	5	5	3

NOTE: Data for this table are derived from DOL/data 57B for calendar year 1982, as reported in ETA-207, Tables 57B, 58B, 59B, 60B, 61B, and 62B Ranking includes 50 states plus the District of Columbia. Quintiles are defined as including ranks 1-10, 11-20, 21-30, 31-40, and 41-51.

[a]For separation issues, ranking is based on rates per 1,000 new spells of insured unemployment; for nonseparation issues, it is based on rates per 1,000 claimant contacts (weekly claims).

rates of denials as a percentage of determinations, it is the determination rate which most clearly determines the overall denial rate. The six states are numbered 1 to 6 in approximately the reverse order of their overall denial rates. Beyond this simple ranking, it is important for the process analysis to note the different patterns of determination and denial rates. State 3, for instance, ranks relatively low in the rate at which determination issues are identified, but very high in the rate at which identified issues lead to denial. State 1 ranks rather high in identifying determination issues, but quite low in the rate at which they become denials. State 4 ranks generally low in identifying determination issues, but displays quite divergent rates for denials, ranking very high for the voluntary-quit and able/available reasons, but very low for the misconduct and job-refusal reasons. Explaining these different patterns is one objective of the process analysis.

This chapter provides a foundation for explaining these variations in patterns of determination and denial rates, by presenting comparisons of the ways in which the three screening stages of the overall determination process are accomplished in each sample state. Section A examines the effective nonmonetary eligibility requirements in each state according to the provisions of legislation, regulations, and operational rules. Section B describes the variation in methods used by the states to detect determination issues, and Section C discusses the information we obtained on the fact-finding and determination decision-making process itself. These three sections provide some basis for delineating <u>what</u> the states do in each of these three screening stages. In the site visits, we also explored a range of agency characteristics that might help explain <u>why</u> they

do those things. Section D discusses these factors and the information we gathered which appear to distinguish one state from another.

This chapter focuses primarily on differences among the states in eligibility requirements and the methods used to detect determination issues. It is along these two dimensions that we were able to construct the clearest and most complete comparison of the six states, and along which differences among them emerged most clearly in the analysis. We focus less on the fact-finding and decision-making process, as well as on agency characteristics that might affect the overall determination process. On these topics, information derived from the site visits was less indicative of clear patterns. Although certain characteristics and problems described by respondents are worth noting, we generally found the information to be less helpful in explaining the pattern of determination and denial rates.

A. ELIGIBILITY REQUIREMENTS

In the site visits, MPR staff examined statutory and regulatory language and obtained interview respondents' summaries and interpretations of eligibility requirements. Thus, the eligibility requirements stated in this section are the "effective rules"--that is, the rules applied in practice. The eligibility requirements will be described below for separation issues and nonseparation issues.

In presenting state characteristics in this chapter, we make no attempt to convey an overall impression of each state's UI program or to interpret how program characteristics affect denial rates. Instead, we simply portray the range of approaches followed for specific aspects of the nonmonetary determination process. Chapter V will reassemble this detailed

information in summary descriptions of each state, in an attempt to point out the ways in which each state's program rules and operations lead to its pattern of denial rates, and to draw general conclusions from a broad review of all six states.

1. Separation Issues

Rules regarding separation issues are intended to define under what circumstances claimants are to be considered responsible for their own unemployment, and the extent to which they should be penalized for the actions which led to their unemployment. The rules in all states distinguish between situations in which the claimant voluntarily left a job and situations in which the claimant was discharged from work. They attempt to define whether or not claimants who quit did so without good cause and whether they were discharged for misconduct. Both quitting without good cause and being discharged for misconduct are grounds for benefit denial.

Voluntary Quit. All six states have eligibility requirements which allow claimants to receive benefits after quitting a job if they can demonstrate that their departure was caused by certain actions by or the behavior of the employer. Although the level of detail varies in the regulations and the language used to describe the employment-related reasons, there seems to be a common set of employer actions defined by the six states as acceptable reasons for quitting. These include reasons such as an employer's breach of an employment contract, verbal or sexual abuse or harassment, mandatory retirement, violation of health or safety standards, employer changes in wages or work conditions to levels generally unacceptable in the occupation, and various infringements on an employee's labor rights.

However, the states do vary in the extent to which personal reasons for leaving a job can be considered "good cause" for quitting. States 1, 2, and 5 use the most liberal definition of valid personal reasons. These states define "compelling personal reasons" which would justify a voluntary quit, including such items as excessive commuting distance, having to care for a household member who is ill, pregnancy, avoiding a transfer out of the area, and having to accompany a spouse whose job requires moving. State 6 also defines certain other acceptable personal reasons, including sexual harassment, a desire to avoid "bumping" fellow workers in a layoff situation, health reasons, accepting other employment, and shortened hours of work over a two-week period. Among these states, it should be noted that the regulations in States 1 and 2 provide extremely detailed definitions of the circumstances that should be considered good cause and those that should not. The level of specificity in the regulations might be expected to limit the staff discretion that can be exercised in identifying issues and making determination decisions.

States 3 and 4 define allowable cause for voluntary quit more restrictively. State 4 allows no personal reasons at all; only reasons "attributable to the employer" can justify a voluntary quit and lead to the award of benefits. The rules of State 3 are also restrictive, in that they call for the denial of benefits unless the voluntary quit is for "good cause attributable to the employer." State 3, however, defines "valid personal circumstances" which, if demonstrated, can provide a basis for imposing a milder penalty.

This description of state rules on acceptable reasons for voluntary quits illustrates how the detailed examination conducted for the process

analysis improves upon the data incorporated in the regression analysis. Based on a simple classification of state statutes, States 1, 2, 4, and 6 would be considered as restricting the definition of good cause to reasons connected with the work or attributable to the employer; States 3 and 5 would be considered as not restricting the definition. Based on the details of state regulations and practice, however, we found that States 1, 2, and 6 also allow claimants to be awarded benefits on the basis of personal reasons that do not pertain to problems with the work itself or the employer.

Misconduct. In all of the sample states, claimants are awarded benefits if they are laid off by the employer because of a lack of work or are terminated for poor performance. If the employer discharges an employee because of misconduct, however, the claimant will be considered responsible for the loss of the job and will be denied benefits. Although the states vary in the language used to describe misconduct, several themes consistently emerge. The employer must demonstrate several facts about the employee's behavior and about that employer's response which led to the discharge. It must be shown that the employee's action or behavior indicated a deliberate or negligent disregard for the employer's interests, and that the behavior had an adverse effect on the employer. The employer must also show that the employee was aware of the employer's policies when they were violated, or could reasonably have been expected to be conscious of them. Finally, the employer must demonstrate that it reasonably and consistently applied the rules whose violation led to the discharge, that the employee received some warning before the discharge, and that it made an effort to resolve the problem with the employee before discharging that person.

However, in two respects, certain states can be distinguished from the others in their definition of misconduct. The first element of variation is whether the state uses a single definition of misconduct, or distinguishes between different degrees of misconduct. States 1, 4, 5, and 6 use a simple definition of misconduct and apply a uniform penalty for all cases of misconduct. However, State 3 has defined two levels of misconduct. "Gross misconduct" consists of illegal acts against the employer, a series of work-rule violations, or actions indicating malice towards the employer. "Misconduct connected with work" is a vaguer but definitely broader definition of actions by the employee that do not necessarily involve either (1) the clear intent or disregard associated with most states' definitions of misconduct or (2) a demonstration of the employer's efforts to resolve the problem. In fact, interview respondents in State 3 suggested that any discharge that was not caused by the lack of work, but which was based on a violation of worksite rules, would normally become classified as misconduct connected with work. State 2 also defines two levels of misconduct. Normal misconduct resembles the definition of misconduct used in most states, but "gross misconduct" consists of an action by the employee which would consitute an indictable offense, of which the employee has been proven guilty either by written admission or by conviction.

A second, more subtle variation in misconduct definitions is the degree to which the states establish misconduct on the basis of the employee's failure to work up to standards set by the employer or to comply with job requirements. The rules of all the states are clearly designed to

prevent assigning the misconduct definition to an employee when that person is simply unable to measure up to the demands of the job. State 1, however, is notable in that it imposes a slightly more demanding standard for employees. It need not be demonstrated that the employee deliberately wronged an employer. An employee's actions can be considered to represent misconduct if they show an indifference to or a neglect of duties established by the "employer contract," as opposed to a more abstract definition from the state's perspective of the employer's interests. Moreover, a claimant can be discharged for misconduct if his/her present performance does not meet past standards of productivity and thus indicates current negligence or indifference. Although formal policies in other states refer to such employee behavior, State 1 was the only one we visited which seems to deny benefits on such grounds.

Penalties for Separation Issues. Claimants who have been discharged for misconduct or quitting are denied benefits in all states, but the penalties associated with the denials do vary. In general, the states use the following devices in defining separation denial penalties:

- Disqualification for duration of employment. If this provision is included in the penalty, disqualified claimants would not be eligible for UI benefits until they become reemployed and subsequently lose their employment for valid reasons. If claimants are not disqualified for the duration of unemployment, they are disqualified for a specified period, but need not become reemployed and subsequently unemployed before receiving benefits.

- o Minimum standards for reemployment. When a claimant is disqualified for the duration of unemployment, it is expected that a substantial period of new employment elapse before a subsequent claim is filed. Some states define this period in terms of the amount of money that must be earned in the new employment, either as an explicit minimum dollar amount or as a multiple of the weekly benefit amount which the claimant would receive if eligible. Other states define the period in terms of the length of time employed.

- o Loss of wage credits. Disqualification for the duration of unemployment delays a claimant's ability to draw upon wage credits. Benefits based on wage credits are lost only if, because of the delay before requalification, a claimant reaches the end of the benefit year before exhausting benefits from the base period. However, some states impose penalties which also provide for the loss of wage credits.

The severity of a state's penalties depends to some extent on the circumstances of individual claimants. The employment history, wage level, and weekly benefit amount of each claimant would determine whether the claimant would find it more difficult to requalify for benefits in new employment under a requirement stated either in dollar terms or as a multiple of the weekly benefit amount. Nevertheless, it is possible to provide some rough categorization of the six sample states with respect to the severity of penalties. States 1 and 5 could be viewed as having the mildest penalties, disqualifying claimants on separation issues for the duration of unemployment and until they have earned, respectively, five and six times the weekly benefit amount. State 3 imposes somewhat more severe penalties. Claimants must earn ten times their weekly benefit amount in new employment if they have quit employment without good cause or have been discharged for gross misconduct. However, a reduced penalty is defined for "voluntary quits with valid circumstances" and for "misconduct connected with work." In such cases, claimants are disqualified for an elapsed

period of five to ten weeks, with the exact period determined individually for each case. Penalties in State 2 are considered to be still more severe, since all disqualified claimants must earn ten times their weekly benefit amount in new employment before requalifying.

States 4 and 6 could be viewed as imposing the most severe penalties for separation denials, since they require both minimum earnings and a minimum period of time in new employment for requalification. State 4 requires claimants to work for five weeks and to earn ten times their weekly benefit amount for requalification. State 6 requires claimants to work for four weeks and to earn a minimum of $200 in order to be requalified after having been denied benefits for voluntary quits. Claimants denied benefits because of misconduct are disqualified for three weeks, but also lose all wage credits accrued from the employer who discharged them, a provision which could be very severe for an employee whose base-period wage credits came entirely or primarily from that employer.

2. Nonseparation Issues

Unemployment insurance claimants can be denied benefits for two major reasons not pertaining to the circumstances surrounding their termination from their last employment: (1) if they are unable to or unavailable for work, or (2) if they refuse a job offer or referral to a potential employer without an acceptable reason. For "able and available" issues, benefits will be denied for any week in which the claimant is considered responsible for the unemployment spell. Penalties for refusal resemble those imposed for separation issues.

Able and Available. To be eligible for UI benefits in any state, the claimant must be able to work from the standpoint of physical and mental health, and must be available for and ready to accept work. Claimants must also demonstrate a real connection to the job market to support the claim that they are able and available for suitable work; most states require evidence of a search for employment as an indication of such exposure to the job market.

However, state rules on "able and available" requirements vary along several dimensions. First, states differ in how they define the types of work that claimants must be able to perform to be considered "able." Second, states differ in the latitude they allow claimants in deciding what constitutes "suitable" work, and how this latitude changes as the spell of unemployment increases. Third, the states set different standards about what portion of a week a claimant may be unavailable for work and still not be denied benefits for that week. Finally, they differ in how they define the work-search activity in which claimants must engage to remain eligible.

To varying degrees, the rules of all six of the sample states acknowledge that health problems which interfere with work in the claimant's occupation do not necessarily imply that the claimant is unable to work. States 2 and 5, for instance, require simply that the claimant be able to perform some gainful work that exists in the job market. State 1 requires that the claimant be able to perform any type of work for which that claimant would be reasonably suited by virtue of experience and skill, but clearly does not require that the claimant be able to perform work in that claimant's usual occupation. As an operating guideline, State 6

requires claimants be in sufficient health to perform 15 percent of the jobs in the market, although how such a refined standard is applied is unclear. No information about the definition of ability to work was obtained for State 4, which may simply reflect the absence of a precise rule.

State 3 uses the most liberal definition of ability to work. If claimants who receive benefits become sick or disabled and are unable to work, they are allowed to continue receiving benefits until they are offered employment or a job referral. When they report being ill or disabled, the agency first determines whether a job match can be made through the employment service. If a suitable job is available, the claimant must either accept it or be deemed unable to work and be denied continuing benefits until the health problem is corrected. If no job match is made, claimants can continue receiving benefits.

All of the sample states allow claimants to restrict their availability for "suitable" work. However, this policy is commonly defined in regulations but not in statutes. Based on the statutes, only State 5 among the sample states would be counted as allowing this restriction; all others were treated in the regression analysis as using a policy that did not give claimants the option of restricting themselves to "suitable" work.

State definitions of "suitability" most commonly deal with jobs that claimants could not reasonably expect to obtain, or which would impose intolerable burdens on them. For instance, if a claimant has no qualifications for or experience with a particular type of work, the states generally do not consider that person available for that type of work. States would similarly allow claimants to restrict their availability to

employment that does not pose health or safety hazards, and which is located within an acceptable distance from their residence. However, large differences exist within the six sample states in the detail and precision with which these rules are developed. States 1 and 2, in this area as in others, provide a clearly greater level of definition than other states.

It appears that all of the six states allow claimants to restrict their availability to work that pays wages and requires skills comparable to their usual occupation, but also that the states relax this restriction as the claimant's unemployment continues. The clarity and terms of this policy vary significantly among the six states. States 3 and 5 do not define in statutes or regulations how claimants are expected to lower their expectations about wages as time goes by. State 4 simply allows claimants a "reasonable time" before they are expected to adjust the scope of their availability. States 1 and 6 define specific "adjustment periods" during which claimants may restrict themselves to jobs at their usual pay--for example, State 6 for six weeks and State 1 for a period of between four and ten weeks, depending on the skill level of the claimant's occupation. Neither of these states, however, clearly defines how rapidly claimants are then expected to adjust their wage demands and by how much. In State 2, however, explicit guidelines on this subject are included in the regulations, allowing claimants the first five weeks to look for comparable-pay jobs, with subsequent six-week periods in which their wage demands should be reduced to 75, 70, and 65 percent of their last pay.

The extent to which claimants may limit the hours and shifts they are willing to work without being considered unavailable for work varies somewhat from state to state. Despite differences in description, however,

States 1, 2, 3, and 5 all basically require claimants to be available to work the hours which are customary for the occupation in question. Typically, claimants may exclude night-time hours unless those are the rule in their occupation, and may limit themselves to night hours only if a substantial labor market remains open to them with that restriction. State 6 simply requires that whatever restrictions claimants place on hours, they must remain available for 50 percent of the jobs in the occupations in which they are seeking work. State 4 appears to have no clearly defined rules on hours restrictions.

The rules in all states deny benefits for any week in which a UI claimant is unavailable for work. Claimants may be considered unavailable if they are away on vacation, attempting to become self-employed, incarcerated, too ill to work, or otherwise not in a position to accept employment. It appears to be common practice, and in some instances part of eligibility regulations, to accept situations of unavailability for part of a week without denying benefits. The states vary somewhat in how strictly they apply their rules on partial-week availability. The regulations in State 1 clearly stipulate that a claimant be denied benefits if that claimant is unavailable for work for more than one day in a week. States 2 and 5 are less demanding; they simply require the claimant to be available for work for the "majority of the week," so that two days of unavailability would be accepted. States 3, 4, and 6 have no clear rules on partial-week availability that we could discover.

To be considered unemployed, an individual must be seeking work, which in all states is usually recognized by two requirements: that claimants register with the state employment service, and that they pursue

and provide evidence of their own active work search. For both requirements, the six sample states differ considerably in how stringently they apply them to claimants.

All six of the sample states require some form of registration with the employment service, but, to varying degrees, they all recognize that it would be inappropriate to require all claimants to do so. One aim common to all of the states is to avoid burdening the employment service with registering claimants who have been temporarily laid off and who either expect to be recalled within a reasonably short time or will be recalled on a definite date. Not extending registration requirements to such claimants is also in the interests of employers responsible for the layoffs, because it effectively prevents the employment service from referring these claimants to other jobs, and thus protects the employers' pools of experienced workers available for recall. The states also commonly exempt from registration requirements those claimants who normally find work through a union-hiring process or who are unemployed because of a labor dispute in which they are not directly participating.

However, the sample states vary widely in how long the anticipated period of layoff may be without imposing the registration requirement and how long a period may go by before excused claimants are required to register. States 1, 2, 4, and 6 are relatively stringent on this matter, exempting claimants from registration if their anticipated unemployment will last for a period of between four and five weeks. States 3 and 5, however, allow much longer anticipated unemployment (ten and thirteen weeks, respectively) before requiring registration.

The substance of the registration process that satisfies eligibility requirements in the states also varies, and seems to reflect the level of expectation in the state agency about the degree to which the employment service will in fact expose claimants to potential job offers. At one extreme, State 5 simply requires claimants to sign a statement about their willingness to accept employment. State 3 requires a minimal registration process: the majority of unattached claimants need only complete a short registration form that is subsequently entered on employment service files as an "inactive" registration, so that the claimant is subject to referral only when voluntary registrants with the employment service do not constitute enough suitable referrals to employers who request them. UI claimants are placed in "active" registration (which exposes them to the real likelihood of job match) only if they are in high-demand occupations or if the local economy is brisk enough to require expanding the pool of available referrals. Although State 6 requires all claimants to register if they do not expect to be recalled within five weeks, it does place in a "short-term" file the registration information of all claimants who expect to be recalled within five months. These claimants will be matched by the employment service only with jobs of specified short duration, which according to agency respondents substantially reduces the likelihood of a job match and referral. The rules in States 1, 2, and 4 constitute the most substantive registration process: claimants are required both to complete forms that provide

information on work skills and availability and to take an interview with an employment service interviewer.[1]

No state agency explicitly assumes that all UI claimants will become reemployed through the efforts of the employment service, but each of the six states we examined in the process analysis varies dramatically in the extent to which their eligibility requirements insist upon an active, independent work search by the claimant. States also vary in the regularity and methods by which they expect claimants to seek jobs, and the evidence they expect of that search. The most routinized job-search documentation is expected in States 3 and 4, where claimants are expected to conduct an active job search and submit the names of two employer contacts made each week when they file ongoing claims. In State 4, the contacts are supposed to be made on two different days of the week.

States 1 and 2 have regulations and practices which define a more flexible requirement. In State 1, claimants are required to be "actively seeking" work, to provide evidence of the previous two weeks of search activity at application time, and again to provide evidence of two weeks of search during Eligibility Review Process (ERP) interviews at ten-week intervals. No standard number of contacts is expected each week, but, for each case, claims interviewers can determine what constitutes an appropriate level of search activity, depending on the type of work sought and the local job market. In State 2, statutes and regulations simply

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[1]It should be noted that a number of states quite clearly had adjusted the rigor of their registration requirements because of the high level of unemployment at the time of our visits and because of the consequent difficulties faced by the employment service in finding job referrals for registrants in general and for UI claimants in particular.

require a "diligent search" effort, which can be established for each individual case. In practice, however, State 2 appears to require all claimants to submit the names of two employer contacts per week.

States 5 and 6 have the least rigorous job-search requirements. State 5 does not appear to have a rule that establishes an active work-search requirement, so that the issue of availability for work is most likely to be tested only if a claimant is referred to a job interview by the employment service. State 6 has no formal work-search requirement that applies as a blanket rule. The UI agency can impose a specific search-activity requirement for individual claimants if their labor-market attachment is questionable; however, agency respondents report that this step is taken for less than 1 percent of all claimants.

Refusal of Work or Referral. All states require claimants to accept job referrals to suitable work when offered by the employment service, and to accept offers of suitable work from employers whether or not the offer is made from an employment-service referral or through independent work search. The definition of suitable work is the major source of variation in refusal policy among the states, since refusing work that is deemed unsuitable does not warrant denial of benefits.

Definitions of suitability of work for purposes of determining whether a job is refused with good cause generally correspond to the suitability criteria used to assess claimants' availability for work. The clearest variation among the sample states pertains to the rules on the extent to which and the speed with which claimants must adjust their job demands over time. As described earlier, State 2 has the most specific and, hence, probably the most stringent policy on this criterion; States 1

and 6 define specific periods after which some adjustment is necessary; and States 3, 4, and 5 have no clearly stated rules at all on the adjustment period.

States also seem to vary in the type of distinction they make between a refusal to accept a job referral and a failure to respond to agency attempts to provide the referral. Although the denial of benefits would normally be justified only by an explicit refusal by the claimant, an inadequate response to referral attempts sometimes indicates circumstances in which the claimant is not really available for work. The manner in which states follow up on difficulties in generating referrals to claimants is discussed below as part of our examination of the methods for detecting determination issues.

Penalties for refusing job offers or referrals generally correspond to those imposed for misconduct and voluntary quits. States 1 and 5 disqualify claimants for the duration of employment and until their subsequent employment earnings equal, respectively, five and six times the weekly benefit amount. State 2 requires claimants to have post-unemployment earnings of ten times the weekly benefit amount. State 3 disqualifies claimants either for five to ten weeks or until reemployment earnings reach ten times the weekly benefit amount. Agency respondents reported that the choice of penalty depends on "personal circumstances" and the "suitability of the job," but we did not discover any more explicit decision guidelines. States 4 and 6 disqualify claimants for the duration of unemployment and require both a minimum period of reemployment and minimum earnings. State 4 requires five weeks of work and ten times the weekly benefit amount, and State 6 requires four weeks of work and at least $200 in gross earnings before a claimant can requalify.

B. DETECTION AND IDENTIFICATION OF DETERMINATION ISSUES

Eligibility requirements provide the theoretical basis for determining which claimants should be awarded and which should be denied benefits. However, nonmonetary denials occur only when some reason has been established to question or challenge the legitimacy of a particular claimant's work separation or continuing availability and willingness to accept work. Thus, the effectiveness with which UI agencies identify issues that require determination can be expected to affect their ability to deny benefits to claimants who in fact are ineligible. This section describes the ways in which the six sample states identify cases that require determination for both separation and nonseparation issues.

1. Separation Issues

The site visits uncovered two types of variations among the sample states which could contribute to differences in the rates at which separation-related determination issues are raised. The first pertains to the possible effect that the information which is provided to individuals during the intake process has on detecting determination issues. The second pertains to the manner in which the UI agencies solicit information about separation issues from employers and take the initiative themselves in opening the determination process.

The manner in which UI agencies provide information on program rules to individuals at intake seems to reflect two motives. On the one hand, the agencies we examined were simply complying with their legal obligation to provide claimants with information about their rights and responsibilities under the Unemployment Insurance law. On the other hand,

agency respondents consistently stressed that agency policy was to encourage application, and that the agency had no motivation and made no effort to screen out or to discourage the application of individuals who had potentially questionable claims. Clearly, however, information provided to individuals interested in filing an initial claim might potentially either discourage them from applying or affect the information they supply to support their claim. In turn, either condition could affect the frequency with which agencies identify questionable claims and perform determinations.

The UI agencies in the sites sampled did in fact vary according to when and how they provided information about UI rules and claimants' responsibilities in the sequence of intake steps. States 1, 3, and 5 seem to provide a brochure on the rules, rights, and responsibilities only after the claimant has completed the application forms for UI, has provided information on the reason for work separation and availability for employment, and has made some contact with the claims taker.[1] In State 2, individuals receive a brochure on the program eligibility rules and their responsibilities before they provide any application information. When they are called in to see a claims taker, the claims taker briefly reviews

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[1]The states use a variety of job titles to describe the functions performed by staff in the UI offices. The job of taking initial claims forms at intake is performed by staff usually referred to as "claims takers" or "claims interviewers." Fact-findings, determinations, and Eligibility Review Process interviews are usually performed by staff called "examiners," "adjudicators," "claims specialists," or "deputies."

the program rules and then reads through the questions on the initial claims form and fills it out for the claimants. In State 4, claimants receive an explanation of the program and their rights and responsibilities after meeting with an employment service interviewer, but before completing the initial claims form and talking with a claims taker. Furthermore, if the claims form indicates a possible separation issue, claimants are asked to return with a completed fact-finding form a week later when they file their first weekly claim. In States 2 and 4, it is possible that some specific information about program rules might turn away individuals who doubt their own eligibility. This situation would be particularly possible in State 4, in which the normal sequence of events would allow the claimant a week to decide whether or not to go ahead with the claim. It should be stressed, however, that none of the agency respondents felt that a screening effect was occurring to any significant extent.

A stronger potential for influencing determination frequencies lies in the variation among states with respect to the methods they use to obtain employer information on separation reasons, and the extent to which the agency itself will initiate a determination. Since all states ask claimants for their own statement about why they were separated from employment, the agency itself has some basis for independently deciding whether an issue exists and requires determination. Some variation exists among the states in the extent to which they use this information, the manner in which they pose questions to employers, and the degree to which the agency insists that employers return the form on which they are asked to provide information.

States 1, 2, and 3 seem to take a more active role in obtaining employer information and finding issues than do States 4, 5, and 6. Before awarding benefits, State 1 sends a form to the last employer and asks the employer to return the form with information on the reason for separation. Claims adjudicators will telephone employers before the first claim is processed, even if repeated efforts are necessary. State 2 automatically initiates the determination process as soon as the claims interviewer notes an apparent issue on the initial claims form, and provides two separate mechanisms by which employers can notify the agency about the separation circumstances. Employers are provided with a stock of forms which they can use at their own initiative to inform the agency when an employee is terminated, allowing them in a sense to submit a "prior protest" before the agency solicits information or even receives a claim from the claimant. In addition, the agency routinely sends a different form to the last employer of each new claimant to request separation information, and this form is to be returned before the claim is processed. State 3 sends information-request forms to all of the claimant's employers in the four base-period quarters and the most recent quarter, and follows up the request forms with a telephone call to the most recent employer if no response is received by the first weekly claim filing.

States 4, 5, and 6 follow procedures which in various ways seem somewhat less likely to point out real issues or to lead to reported determinations. In State 4, for instance, a form that requests separation information is sent to the last employer and is to be returned within seven days; however, if no response is received, follow-up procedures are not

undertaken, and the claim is then processed. The frequency of determinations in State 4 might also tend to be held down by the high percentage of initial claims that are filed by employers directly for temporarily laid-off workers (40 to 55 percent, according to respondents). Such claims are probably less likely to contain information that would be questioned by agency staff. State 5 sends an information-request form to the last employer and monitors the return of the form, but treats identified issues in a way that may depress the reported number of determinations. If an apparent issue is identified when the claimant completes the initial claims form, an interview is conducted immediately to collect further information. If this interview demonstrates that no reason for denial exists, the process is not counted as a determination.

State 6 specifically requires that separation issues be initiated only by employers' protests on the forms the agency sends them. Claims interviewers note only nonseparation issues, and do not initiate a determination even if the claimant reports having quit or been fired from the last job. Morever, a form sent to employers asks whether they "question the eligibility of the claimant for benefits," and not simply the reason for the individual's job separation. For employers who are unfamiliar with Unemployment Insurance law and the experience-rating system, or for employers who already pay the maximum tax rate, this approach for obtaining information would seem less likely to elicit answers which might lead to a denial of benefits.

2. No separation Issues

Continuing eligibility issues are most likely to be identified from four sources: (1) examination of intake forms; (2) agency examination of ongoing claims forms for compliance with availability, refusal, and adequate work-search requirements; (3) information obtained in periodic Eligibility Review Process (ERP) interviews; and (4) the responses of claimants to job referrals or offers generated by the employment service. States vary in what appear to be important ways as to the strictness of their claims review process, the frequency and regularity of ERP interviews, the likelihood that claimants will be exposed to job referrals, and the agency's treatment of claimants' responses to referrals. We did not obtain noteworthy information on all of these ways to identify issues for all of the sample states, but a summary of relevant available information for each state shows some distinctions among them.

State 1 appears to use the claims-reporting process and ERP interviews fairly rigorously. Weekly claims forms pose questions designed to flush out issues. Claimants are asked for a straightforward account of facts without any interpretation. For example, they are simply asked whether they refused any work rather than whether they refused work without good cause. Similarly, they are asked whether they were available for work for the entire week, even though one day of unavailability would not represent a basis for denial. Claimants required to appear in person are scheduled for a particular day in the morning or afternoon. If claimants report at the wrong time once, it is simply noted in their file; if it occurs the second time, a question is raised about their availability, and a determination is made. The failure to respond to a referral call-in card

also prompts an investigation of possible availability issues. ERP interviews are conducted every ten weeks after the initial claim, and they focus on determining the adequacy of job-search efforts and availability. If a question arises about either requirement, the claimant may be required to submit continuing claims in person.

State 2 also follows certain practices which would seem to enhance the agency's ability to identify potential issues. The weekly claims-filing process requires submitting information about employer contacts. These contacts are listed by the claimant on a form which is reviewed and then returned to the claimant for use with subsequent claims. Thus, when this form is reviewed by agency staff, they have in front of them a multiple-week listing of up to forty employer contacts, which may make it easier to spot repetitive employer entries, suspicious patterns that may suggest that contacts have been fabricated (e.g., alphabetically listed employers), or other reasons to question work-search activity. The number of employer contacts is checked on each submission. A warning is issued the first time that the claimant reports too few contacts; the second time, the determination process is initiated. Moreover, the agency conducts an ongoing audit of employer contacts, verifying 1 percent of all contacts reported. Although such a sample may only marginally affect the probability that misinformation will be discovered, the knowledge that this procedure is followed may deter claimants from submitting false contact information. ERP interviews are conducted every four to seven weeks for claimants who are not on temporary lay-off, and focus clearly on detecting potential eligibility issues. For new claimants viewed as having potential able/available issues, an ERP is scheduled a week after the initial

filing. The agency also provides employers with a stock of forms on which they can initiate a report of recall or job refusal.

Some of our observations during the State 3 site visit suggest that this state may be less effective in identifying nonseparation issues. As pointed out in Section A, very few State 3 claimants register with the employment service and have any real chance of being referred to an employer. Moreover, state policy on requirements for work-search activities does not seem to be followed consistently. State policy requires claimants to report two employer contacts per week in order to continue receiving benefits. However, in neither of the offices we visited did staff appear to follow this policy exactly. In the urban office, if contacts were missing from the claimant's report, the agency seemed to follow up by providing claimants with information on program requirements but, only in rare cases, by initiating a determination. In the rural office, the perception of policy is that claimants are not required to make any contacts for the first ten weeks. The policy which exempts employer-attached claimants from ES registration and work-search requirements for ten weeks seems to affect the treatment of all claimants. ERP interviews in State 3 are supposed to be held every ten weeks, but the reported average interval between ERPs is thirteen weeks.

State 4 seems to schedule ERPs more effectively than State 3, setting a maximum interval of ten weeks but scheduling them at four-, six- or eight-week intervals if any question arises at intake about the claimant's ability to demonstrate continuing eligibility. On the other hand, State 4 seems to take a fairly relaxed approach to monitoring work-search activity and dealing with claimants' responses to job referrals.

Claims reviewers reportedly question only the most "outrageous" information (such as a list of employers which includes the names of well-known sports figures). One respondent said that a determination would not be required even if a claimant appeared to be listing employers alphabetically from the telephone directory. No verification of employer contacts is performed. The agency also responds mildly to problems in referring claimants to employers. The common rule of thumb followed in State 4 is that only when three referral call-ins have been ignored will an issue be raised, which is considerably more tolerant than in States 1 or 2.

With respect to weekly claims, State 5 follows a practice which would seem to increase the number of issues raised, but which would not necessarily increase the probability of leading to denials. Able and available issues probably arise most often from the agency's reporting requirements and the claimants' failure to comply with them. Claimants scheduled for in-person filing or an ERP interview are told to appear on a specific day at a specific hour. If the claimant appears for claims filing at the wrong time, it is noted in the file. By the third time it occurs, the claimant is referred to an adjudicator for determination. If a claimant fails to appear once for an ERP interview at the proper time, a determination is made. Particularly in the urban office, where a high percentage of claimants are reportedly on continuing personal filing, this degree of reporting regimen may expand the number of determinations. Failure to report at the right hour, however, may be less indicative of the claimant's unavailability for work than would, for instance, the failure to report on a scheduled day.

On the other hand, State 5 seems to expose claimants to a minimal risk of being questioned about refusing work or referrals. Weekly claim cards ask claimants whether they had "refused work without good cause," allowing them to provide their own interpretation of state policy rather than a straightforward account of facts. Moreover, very few claimants are likely to be referred to jobs by the employment service. Under State 5 policy, claimants are not required to register with the employment service if they expect to be recalled to their jobs within thirteen weeks (a long period compared with other states), but workload pressures on the employment service have created practices that are even less rigorous. In the rural office, the employment service had requested that claimants not be referred for registration if they had any expectation of recall; in the urban office, the stated policy was to register everyone after thirteen weeks of unemployment but not to register anyone before that period. The employment service clearly seems to focus on registering individuals who volunteer and who appear most interested in obtaining employment with the agency's help. The result, however, is that claimants who are most likely to refuse employment without good cause are least at risk for referral.

The likelihood that nonseparation determination issues will be raised in State 6 is probably affected by the agency's minimal emphasis on work search and by problems in maintaining a regular schedule of ERP interviews. State 6 does not require claimants to report any work-search activity on the weekly claim card; thus, no regular, frequent basis exists for examining claimants' continuing exposure to the job market, which is of course one measure of their attachment to the labor market and of their availability for work. In addition, due to staffing cuts, State 6 has had

considerable difficulty in achieving its objective to hold ERP interviews every eight weeks for each claimant. For instance, the urban office we visited had not held any ERPs in the five months prior to our visit.

C. FACT-FINDING AND DECISION-MAKING

Once the UI agency identifies a nonmonetary eligibility issue on the basis of statements made by the claimant or on information provided by employers, a process of fact-finding and interpreting reported facts leads to a decision about the merits of the claim—a determination. This process includes two distinct functions: gathering information as a basis for making these decisions and considering the facts in light of state laws and regulations.

Although all states in our sample appear to provide guidance for fact-finding and decision-making, the variation in detail and in the precision of state regulations and procedures commented on in Sections A and B of this chapter clearly has some potential impact both on determinations and on identifying separation issues. In our site visits, we did not find specific complaints about inconsistent or unfounded determination decisions, but consistency and justification are clearly a concern of the states.[1] All operate some type of procedure for reviewing and performing quality control on determination decisions (see Section D for a discussion on the approaches taken for ensuring quality control).

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[1]As measured by the Department of Labor's Unemployment Insurance Quality Appraisal Results, all six sample states maintain high standards for the quality of nonmonetary determinations. With one exception (the performance of one state on nonseparation determinations in 1981), all states have achieved desired levels of quality over the fiscal years 1980-1982.

Aside from the clarity of policy guidelines used in determinations, the process itself follows different patterns in the six sampled states. The fact-finding process varies in several ways. First, some states seem to conduct frequent preliminary, informal inquiries to confirm that there is an issue which merits formal determination; other states treat every issue that has been identified through routine claims review as a basis for formal determination. States also seem to differ in the extent to which they encourage employers to participate in the fact-finding process or actively draw them into it. Determining eligibility based on the facts, usually called "adjudication," is also a process which varies somewhat among the six states. Some variation exists with respect to who performs adjudications, and the manner in which decisions are prepared and notifications are produced is not completely uniform.

State 1, like most other states, makes determinations at the local office level. What is somewhat ususual, however, is that nonmonetary determinations, including fact-finding and adjudication, are a responsibility which rotates among all of the local office nonclerical claims staff, as opposed to being assigned only to senior or more highly qualified staff. As a corollary to this practice, all claims staff learn to make determinations through on-the-job observation and training, which may affect their performance in routinely handling initial claims by giving them a more thorough foundation in and frequent exposure to state policy guidelines. On the other hand, assigning determinations on a rotating basis may mean that relatively junior staff will perform some determinations, which may preclude a consistent interpretation and application of rules. State 1 is also noteworthy in the level to which it

insists that employers provide input to the determination process and the extent to which the state uses that input. If an employer report is not returned or if a separation issue has been noted by the claims taker and the claimant's facts contradict the employer's report, an adjudicator will contact the employer by telephone. In either situation, no claim will be processed without information or clarification from the employer. Moreover, the adjudicator does not require any written follow-up on information received from the employer by telephone, which avoids one potential barrier to employer input observed in other states.

The fact-finding and determination processes in State 2 also emphasize obtaining full information from both the claimant and the employer whenever relevant, but its procedures place some greater demands on employers. The agency treats employers as a source of information that can potentially raise both separation and nonseparation issues. The agency provides employers with a stock of forms on which the employer may initiate reports of quits, discharges, or refusals; it also solicits information from the employer on separation issues as they arise for individual cases. Employers' written protests, submitted on forms from the agency or sent at their own initiative, must include a detailed explanation of any issue cited by that employer. Furthermore, fact-finding is conducted in scheduled interviews in the local office to which the employer and the claimant are invited. Decisions are based on written information received prior to the interview and evidence presented in it; if the employer does not attend, no effort will be made to elicit further information. Agency

respondents reported that employers attend about 25 percent of these adjudication interviews, and viewed this as a low attendance rate.[1]

The fact-finding and determination processes in State 2 seem particularly well designed to ensure both that sufficient information is collected and that consistency is maintained in how the process is conducted and what type of information is provided to the parties at various steps. Employer information is actively sought, but all information must be in writing or presented within the formal interview at which the claimant is present. A clear set of step-by-step guidelines on what should be covered in a determination interview was set forth by agency staff. State 2 sends copies of employer reports to claimants, and always informs both the claimant and the employer in writing about a scheduled fact-finding interview. Decisions are very closely constrained by the detailed regulations on all aspects of nonmonetary policy. Finally, consistency in the justification of decisions is promoted through a computer system that allows adjudicators to select from a standard list of codes pertaining to the regulations and then automatically prints the appropriate explanatory text on notification decisions sent to the parties.

The fact-finding and adjudication processes in State 3 appear to screen out some issues that would be resolved in favor of the claimant before the formal determination stage, to involve employers in the process

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[1]One State 2 respondent suggested that employers do not tend to take part in these interviews because they prefer to avoid the burden of participating, take their chances on winning a denial based on their written protest, and appeal the decision if necessary. The respondent suggested that employers thus "overuse" the appeals process. In fact, data for one quarter in 1980 confirm that employer-initiated appeals are undertaken for about 6 percent of all determinations, ranking this state among the highest in the incidence of employer initiated appeals.

to a lesser degree than in States 1 and 2, and to focus on judging the severity of the claimant's offense rather than on establishing whether one occurred. Information from employers triggers only separation-related determinations, since no mechanism exists as in State 2 for reporting recall refusals. Some separation determinations are short-circuited by informal inquiry; claims adjudicators sometimes call employers prior to any formal determination interview if the reported facts do not seem to support their protests. It appears that such cases can lead to an informal resolution of an identified issue without a reported determination process occurring. When an adjudication interview is held, it may or may not include the employer. Employers will generally attend only if a sharp discrepancy exists between the facts alternatively reported by the employer and the claimant, but respondents in State 3 reported that such cases occurred very rarely. Most interviews include only the claimant and the adjudicator. Moreover, it should be remembered that State 3 provides for two levels of penalties for separation and refusal denials. As a result of these factors, it appears that State 3 in effect conducts formal determinations only when the chances of denial are great. Adjudication interviews usually focus on the degree of the claimant's offense, for purposes of establishing the length of the disqualification period.

In State 4, fact-finding and decision-making are two separate functions. For "disqualifying" issues (quit, misconduct, and refusal), fact-finding is performed at the local office, and adjudication is performed at the central state office. For able and available issues, fact-finding and adjudication are performed by local office staff. Not surprisingly, using central office staff for all other adjudication purposes (a process which was instituted in order to lower administrative

costs and to increase the consistency of decision-making) affects the methods used by local staff for fact-finding purposes. State 4 does not use scheduled interviews that require the presence of both the employer and the claimant. Claimants are expected to provide a completed fact-finding report, and employers may submit a written protest on separation issues. Claimants are allowed to see any material submitted by the employer, and to prepare a rebuttal. Both the employer's and the claimant's reports (including a rebuttal in some cases) are sent to the central adjudicator. The adjudicator may call either party if further information is necessary. The fact-finding process in State 4 differs from the process in the other states in that it does not contain a provision for an interview in which both parties participate at the same time. Moreover, adjudicators never deal with the parties face to face. As a result, it may be more difficult for adjudicators to judge the credibility of the parties.

Central adjudication in State 4 may mean that the quality of evidence to decision-makers is not as complete as what might be attained if fact-finding and determinations were undertaken by the same person. Morever, central adjudication may undermine the decision process to the extent that both parties feel that their positions are not given the proper attention. The high incidence of appeals in State 4 support both contentions. In 1982, first-level appeals were made on over 22 percent of all determinations, ranking the state among the top five in the country. Moreover, the determinations which tended to be appealed were clearly those which were adjudicated centrally. Appeals were filed on less than 5 percent of able and available determinations, ranking State 4 among the lowest five states along this measure.

State 5 maintains a fact-finding and adjudication process which is heavily affected by federal timeliness standards for the payment of initial claims and by state court decisions which require determination decisions within 72 hours of a claimant's filing for the week in question. The state UI agency responds to these time pressures through procedures that include rapid fact-finding, frequent use of telephone discussions to collect information, some screening of issues before they become formal determinations, and a low priority on formal notifications and advance notice of hearing sessions. When a separation issue is noted on an initial claims form or signalled by an employer report form, or when nonseparation issues arise from job refusals or ERP interviews, claims adjudicators act quickly to clarify whether a formal determination is necessary. When an initial claim points to a possible separation issue, an adjudicator conducts a fact-finding interview before the claimant leaves the office, perhaps calling the employer by telephone in the claimant's presence. If such a fact-finding interview indicates either a consistent set of facts from the two parties to support benefit denial or conflicting statements that require a judgment about credibility, the adjudicator will ask the claimant to file a claim for the waiting week, since a claim must be filed before a determination decision can be issued. The employer would still be required to submit a written report form on the reason for separation. If necessary, a predetermination hearing with both parties would then be held. However, if the fact-finding interview indicates no reason for benefit denial, the matter is dropped. The rapid follow-up procedures on separation issues in State 5 and its process whereby all the facts are determined before the first weekly claim is filed may contribute to the

fact that issues which in other states are reported as determinations are in fact eliminated in State 5.

Time pressures also influence the handling of nonseparation issues in State 5. When issues are discovered while the claimant is in the office for a personal filing or an ERP interview, the fact-finding interview is held immediately. If an issue arises after the claim has been filed for the week in question, a formal notification is mailed to the claimant, but the adjudicator also telephones the claimant to schedule an interview immediately. No waiting time or advance notice is required. When the fact-finding interview is held, the claimant's statements will be taken into evidence, as will any written statement that may have been submitted by an employer (e.g., for refusals); in most cases, a decision will then be issued the same evening.

State 6, although not under the same court-imposed pressures for rapid determinations as State 5, also follows procedures which appear likely to resolve some issues before they reach the formal determination stage, particularly those that are raised by employers' protests about separation reasons. The agency seems to place strong emphasis on having employers present evidence of a strong case before the determination process is formally undertaken. For instance, the form which is sent to employers to ask whether they question the claimant's eligibility for benefits also asks for a detailed explanation of the reasons for protest, and warns that the failure to provide such detailed information may preclude the agency from considering their protest. Despite this urging, agency staff report that they must frequently call employers to clarify information, particularly for misconduct issues. One respondent stated that

many protests filed by employers are dropped as a result of this screening process, although the agency clearly makes no explicit attempt to discourage the pursuit of a protest.

State 6 follows a schedule for determinations that is much more heavily influenced by due-process and advance-notice requirements, and less by time pressures, than is true in State 5. Once it is clear that a real issue exists, a formal notice of a hearing date is sent to both the employer and the claimant (or only to the claimant in most nonseparation issues), giving them between five and seven days' advance warning. Determination decisions are also not issued as quickly as in State 5. The agency's objective is to complete all determinations by the end of the week in which the hearing is held, and to comply with federal timeliness standards.

D. AGENCY CHARACTERISTICS

Parts of the interviews conducted with central and local agency staff in the sample states pertained to organizational characteristics and internal management concerns. Four topics were covered to at least some extent in most of the states: (1) the formal structure of the UI agency and its organizational relationship to the employment service; (2) the methods used at the state and local office levels to monitor the performance of claims functions in general and nonmonetary determinations in particular; (3) the characteristics of local office staff; and (4) the extent and type of training provided to local office staff. Although these discussions at times touched on particular problems that an office or state agency may have encountered recently, the information obtained does not

indicate any clear, systematic differences among the states along these dimensions. However, several observations or themes that seem common to most or all of the states did in fact emerge.

One clear theme that emerges from the interviews is the importance of experience as a qualification to perform nonmonetary determinations. Whether claims adjudicators (variously called "examiners," "specialists," and "deputies") are promoted from claims-taker positions or are hired from outside the agency, the methods for training them clearly stress on-the-job observation, periods of close supervision and review, and periods of assignment to a variety of related tasks. Only a few states appear to operate more formal training sessions. To the extent that they do use these sessions, they appear likely to stress general interviewing techniques when provided for new staff; at times of budgetary or other pressures, they tend to fall into disuse. Formal training for experienced staff, when provided, is apparently designed to explain newly introduced policies or procedures, and seems likely to be given only to lead staff.

The importance of experience in examiners is also reflected in respondents' comments about the use of temporary or intermittent staff. This practice is followed in all of the states to facilitate adjusting staff levels to the volume of claims, but appears in varying degrees to create concerns about whether the more demanding roles in the local offices are staffed with adequately qualified and experienced staff. In some of the offices we visited, temporary staff filled the majority of claims-related positions. Most states and local offices focus on using the most experienced staff for the most demanding determination issues. Intermittent staff, and particularly the less experienced intermittent

staff, are typically assigned to the initial claims line, which requires less judgment and knowledge of policy than do determinations. However, one respondent in State 3 noted that the degree to which intermittent staff must be used means that determinations also are performed by staff with less than fully desirable experience.

The necessity of relying heavily on temporary staff to retain flexibility also seems to contribute to staff turnover, since temporary staff, rather than maintaining a long-term commitment to the agency, will often use these positions as a stepping stone for other jobs with more stable work, better benefits, and clearer career advancement possibilities. Having a considerable portion of local-office positions staffed by individuals with intermittent job contacts or relatively short tenures contributes to concerns about the agency's ability to identify determination issues.

Concern for the quality and consistency of determinations has led all of the states to undertake some type of monitoring and quality control. Typically, central office staff use one or both of two devices: review of monthly statistical reports on determinations and reversals, with follow-up action when particular problems are revealed; and annual audits or reviews of each office, including examination of individual determination cases. Only in State 1 did we observe any specific criteria used in central office monitoring which would trigger management inquiry and remedial intervention with respect to local-office operations. In State 1, although program rules allow compelling personal reasons as justifications for voluntary separation, state officials are concerned about excessive benefit awards in such situations. Whenever claimants who

have quit voluntarily and are awarded benefits account for more than 10 percent of all separation-related determinations, state officials will investigate. However, from our interviews, it was impossible for us to judge the effectiveness of these monitoring efforts or their effect on performance. Similarly, although local office procedures to ensure quality and consistency typically entailed a review by senior staff of determinations made by junior staff, we could not find any examples of particularly strong or particularly weak efforts to control quality by these means.

V. INTERPRETATION OF STATE CHARACTERISTICS AND DENIAL RATES

The research undertaken for this project addresses an important question for UI program managers and policymakers: what steps can be taken to make the nonmonetary eligibility determination process contribute most effectively to the integrity of the Unemployment Insurance program in the states? More specifically, the patterns observed in the regression and process analysis may suggest how nonmonetary determinations can help state agencies (1) minimize the extent to which claimants violate nonmonetary eligibility rules and (2) maximize the ability of agencies to detect violations when they occur and to reduce or deny benefits accordingly.

It is important to begin our interpretation of state characteristics and denial rates with a recognition of these two aspects of program integrity. Although our analysis must focus on the rates at which states deny benefits for nonmonetary reasons, high denial rates in themselves clearly do not necessarily mean that program management goals have been achieved most effectively. In a state that effectively disseminates information about program requirements and ensures a relatively well-informed public, denial rates might be low because relatively few ineligible individuals attempt to receive benefits. However, such an outcome could be viewed positively from the standpoint of program managers. Although the analysis presented in this chapter must use denial rates as the primary basis for comparing states, attention has also been given to possible ways in which state practices may be affecting denial rates by affecting the stream of applicants for benefits.

This chapter presents our efforts to glean from the site-visit information inferences about the effects of state policies and procedures, administrative methods, and agency characteristics on both denial rates and, more generally, program integrity. Section A briefly discusses how we analyzed the site-visit data. Section B then presents summary characterizations of each state, with comments on what appear to explain denial-rate patterns in each state. Section C then offers some concluding observations about the effects of program policy and administration on denial rates, based on patterns across the six sample states.

A. ANALYTICAL APPROACH

Our process analysis consisted of three logical steps. First, we attempted to identify the peculiarities of the denial rates in each state for 1982. Using the exact rates for the frequency of determinations, denials as a percentage of determinations, and net denial rates that underlie Table IV.1, we assessed how each state's rates compared with those of other states, and looked for anomalies in the rate pattern within each state. On the one hand, we were interested in whether for particular rates, such as the frequency of misconduct-related denials, a state ranked high or low compared with others. On the other hand, we were also interested in whether apparent inconsistencies existed within the overall rates observed for a state. If, for example, a state generally had very low rates of determination but conversely also had a very high rate for one particular issue, such an anomaly would provide a focus for considering policy and administrative characteristics. These inter- and intra-state pecularities serve as the "dependent variables" for our process analysis.

The second step was to undertake a structured and systematic comparison of the site-visit information for the six states. Tables were constructed for each of the major stages of the determination process (eligibility rules, detection, and fact-finding and decision-making) and for each of the nonmonetary-denial reasons. The site-visit reports, which contained extensive descriptive information, were combed for relevant entries to these tables. This process identified the peculiarities that distinguished each state's policy and administration from those of the other states, and provided the "independent variables" for the process analysis.

The third step was to find connections between the policy and administrative characteristics of the states and their denial rates. This analysis proved rewarding in that apparent explanations for denial-rate patterns in individual states did emerge. However, before offering our conclusions about these connections, we should note that the analytic method and our conclusions should be approached cautiously for three reasons—the reliability of our data, their usefulness as a basis for drawing generalizations, and the extent to which we can infer causal relationships from the apparent patterns we observed.

To perform the analysis described above, we must give considerable weight to the comments and perceptions of our relatively few respondents in each state. Comments about the ways in which certain types of claimant situations are handled, or statements such as "Lots of times we do it that way," form the basis for our impressions of the less formalized aspects of state procedures. The very nature of the process-analysis approach necessitates that we use such information, but we do so with an

understanding that we might be oversimplifying or even distorting the patterns of practice that might emerge from a more detailed and time-consuming data-collection effort.

Even if we were completely confident that our information about each state was completely accurate and reliable, considerable difficulties would still remain in drawing generalizations about each state from our conclusions. Many of the denial-rate peculiarities we observed are distinctive to particular states, and what we found noteworthy about state policies and practices was often unique to each individual state. Thus, most of the connections we found between program characteristics and denial rates were based on an examination of one or perhaps two states, rather than on any strong patterns across all of the states. Finding a connection in one state did not indicate that the same relationship existed elsewhere in our sample or in other states.

Most important, it is very difficult to draw inferences about causality from what we observed. Even though a particular set of rules or practices in a state appears to contribute to the observed denial rates, we realize that many other variables in program administration may be affecting the same denial rates and which cannot systematically be observed. Although our conclusions may offer some guidance to states for considering program policy and management options, clearly there should be no expectation that adopting one state's practices will necessarily affect denial rates in the desired way.

B. STATE-BY-STATE ANALYSES

For each of the six sampled states, we present a summary of denial-rate patterns and the major features of policies, procedures, and agency characteristics, as well as our conclusions about how the latter affect the former. Whereas Chapter IV focused on presenting the range of policy and administrative characteristics for particular aspects of the nonmonetary eligibility process, here we focus on each state, drawing together all aspects of the process in an attempt to explain its denial-rate outcomes.

1. State 1

State 1 ranks very high among all states with respect to the frequency with which it identifies determination issues. Its determination rates rank it in the first quintile for misconduct and able/available determinations, and in the second quintile for voluntary-quit and refusal determinations (see Table IV.1). However, State 1 does not deny benefits in an unusually high percentage of cases for which determinations are performed, ranking in the fourth quintile in denials for misconduct, able/available, and refusal issues, and in the fifth quintile for voluntary-quit denials. The net denial rates are heavily influenced by the high frequency of determinations, so the state ranks in the second quintile for three denial rates and in the first for one.

The high rates of determination in State 1 appear to be caused by three major factors: (1) detailed and specific regulations that pose some relatively stringent eligibility requirements and define clear standards against which claimant situations and behavior can be measured; (2) procedures for detecting potential determination issues that promote

employer input and encourage agency staff to pursue questionable claimant information; and (3) a local office staff structure which may enhance identifying issues.

The detail and thoroughness of the regulations in State 1 far exceed what have been developed in all of the other sampled states, with the possible exception of State 2. The regulations in State 1 break each eligibility requirement down into the specific demands it places on claimants, providing explanations of underlying intent and case examples and accompanying recommended decisions. One might expect that the very detailed regulations would allow precise judgments to be made in the issue-identification stage, so as to deny most cases brought to determination. However, that is not the case in State 1, which probably reflects its emphasis on initiating the determination process whenever a possible issue arises, rather than only when a clear case for denial exists. Instead, the detailed regulations appear to require that the facts in the decision stage be carefully developed and weighed, as reflected in the moderate rates at which determinations lead to denials.

Regulations in State 1 also pose some eligibility requirements that are relatively stringent, and which may thus lead to determinations and denials in situations that would not lead to denials in other states. The definition of misconduct, for instance, includes one example of cause for discharge that clearly goes beyond what is found in the other state regulations: an employee's failure to perform as productively as he/she had performed at an earlier time, thus indicating indifference or negligence. Similarly, the definition of job refusal in State 1 includes actions or behavior by the claimant which would indicate a deliberate

effort to fail the job interview. The state's standard for partial-week availability is also the strictest among the six states: a claimant unavailable for more than one day in a week is to be denied benefits for that week. Finally, the requirements in State 1 for employment service registration are rigorous relative to other states in our sample: only claimants who expect to be recalled within 30 days or who normally obtain employment through a union-hiring process are excused from immediate registration, and only for 30 days.

State 1's record for identifying a high number of determination issues seems to be a product largely of the manner in which claims staff seek out employers' input to the initial claims-review process, and the manner in which eligibility rules and procedures prompt investigation of ongoing claims reports. Procedures clearly prohibit processing initial claims without obtaining separation-reason information from the last employer, and examiners will telephone employers persistently until that information is obtained. If information received over the telephone indicates that a determination issue exists, the agency will initiate the determination process rather than insisting on a detailed written explanation, as is true in some other states. Compared with other states, State 1 thus makes it easier for employers to voice objections, and may in fact raise issues that employers who are already paying a maximum tax rate might not even have bothered initiating themselves.

The ongoing eligibility determination process in State 1 is designed to promote staff initiative in identifying the questionable availability of claimants. Rather than requiring a routine report of two or three employer contacts per week, State 1 demands an initial account of

employer contacts made during the two weeks between application for benefits and the first benefit-week claim, and again at the ten-week eligibility reviews. Instead of devoting staff resources every week to counting employer contacts whose seriousness and validity are often difficult to assess from a simple claim card, staff resources are devoted at relatively long intervals--every ten weeks in most cases--to evaluating for each individual case whether a sincere and reasonable employment search is being made. If job-search efforts are questionable, the claims staff can place the claimant on personal filing and require more detailed and frequent search evidence, or initiate a determination.

The method for questioning claimants on weekly claim cards, and the state's standard for ongoing availability, also encourage pursuing potential issues. Claimants are asked for straightforward facts on claim cards (e.g., Did you refuse a job?) rather than for an interpretation of their actions. At least one other state in our sample asks whether the claimant had "refused a job without good cause." State 1 claimants are asked whether they were available for the entire week, even though the actual eligibility standard allows them one day of unavailability. Other states ask a comparable question: "Were you available for work every day but one?" The effect, and probably the intention in State 1, is to find questionable claimant behavior and initiate determinations on that basis, rather than only to identify situations in which denial is very likely. The fact that only two days of unavailability will lead to a week's denial of benefits also encourages claims staff to investigate the reasons for a claimant's failure to respond to a single referral attempt or the reasons why a claimant has shown up for personal reporting to the agency at the

wrong time for a second occurrence. Such investigation raises the incidence of refusal issues and probably lowers the rate of refusal-related denials, since such investigations count as determinations but are relatively unlikely to lead to the conclusion that a claimant is actually refusing employment. However, they do frequently uncover situations in which availablity standards have been violated, and they do lead to a denial on that issue.

The approach adopted in State 1 to local office staffing may also contribute to its high rate of determinations and denials. Aside from clerical and managerial staff, all claims staff have the same title and are rotated among all claims tasks, including initial claims interviewing, fact-finding, and determinations. Checking ongoing claims cards is the responsibility of mail-room clerical staff, and they initiate determinations on any card with a "wrong" answer. Ongoing claims forms ask only "yes/no" questions about availability and job-refusal issues, but do not ask for information on employer contacts. The review of claim cards does not require judgment, and can be performed by clerical staff. As a result of this staffing approach, staff with constant exposure to state policy and regulations are involved in the initial claims process, and are free to concentrate their efforts on pursuing potential separation issues and eligibility reviews rather than on routinely reviewing claim forms.

2. State 2

State 2 resembles State 1 in that it has developed quite detailed regulations to guide the determination process, but it also appears noteworthy for the efficiency with which it uses its staff and its quite advanced use of computer-system support for the determination process.

Despite these characteristics, State 2 holds a middle rank on denials, placing in the third quintile nationally for voluntary-quit, misconduct, and job-refusal denials, and in the second quintile for able/available denials. The rate at which it makes determinations is lower than that of State 1, although higher than the rates of States 3 through 6.

The UI program in State 2 seems to operate under thorough, careful control. Rules are delineated in great detail in the regulations. For instance, State 2 is the only one of the six we examined which defines explicitly when and by what percentages claimants must adjust their wage demands over the period of unemployment to be considered available for suitable work. It is also the only state which appears to undertake any systematic auditing of employer contacts reported by claimants on weekly claims forms. All determinations are conducted according to clear guidelines, including requirements that all information be submitted in writing, and that both parties be appropriately notified prior to a disputed claim. The state provides two alternative methods by which employers can submit information to protest a claim: a special form maintained by employers to report quits, discharges for misconduct, or job-recall refusals; and the form sent by the agency to the employer to request separation information when an initial claim is filed. ERP interviews are conducted more frequently in State 2 than in the other five states; the agency schedules them at four- to seven-week intervals for claimants who are not job-attached.

From the information we gathered, no clear explanation emerges as to why the determination and denial rates of State 2 should be considerably lower than those of State 1, although some of the rules and practices in

State 2 are less stringent than in State 1. Claimants must be available three days out of a week to avoid being denied benefits, rather than four as in State 1. Despite regulatory language which appears to give claims staff in both states a similar latitude in defining the job-search effort required of each claimant, State 2 actually uses a fairly routine operational standard of two contacts per week, without the infrequent but individualized assessment of job-search efforts that appears to be true in State 1. However, State 2 facilitates the review of reported contacts by using a multi-week reporting form that allows claims staff to review the recent history of reported contacts each week. This helps staff to detect fabricated employer contacts or repetitive entries of employers.

The two types of factors that may explain the differences between the rate patterns in States 1 and 2 are external factors and factors that represent a potential deterrent effect, and in neither case can we observe anything to substantiate our speculation. Underlying employment and unemployment patterns may simply create a population of claimants who are less likely to be ineligible on the basis of their circumstances or less likely to apply for benefits if they are ineligible. Some possibility exists that the overall impression of efficiency and thoroughness presented by the UI agency may convince potentially ineligible individuals not to apply, or convince ongoing claimants to adhere as closely as possible to formal requirements so as to avoid being denied benefits.

3. State 3

The pattern of determination and denial rates in State 3 is particularly striking given the very high rates at which determinations lead to denials. In 1982, the state ranked in the first quintile for

denials as a percentage of determinations for all four denial reasons. However, determinations are made at much lower rates relative to other states. State 3 ranks in the third quintile, approximately at the middle of the state ranking, for separation determinations. For nonseparation issues, State 3 ranks very low as to the number of determinations made--near the bottom of the fifth quintile for able/available issues and in the fourth quintile for refusal issues. The high rates at which determinations lead to denials pull the net denial rates up slightly above the determinations rankings, so that State 3 ranks in the first quintile for denials based on misconduct, in the second quintile for denials based on voluntary quits and refusals, but in the fifth quintile for able/available denials. These 1982 rankings were slightly below the regression-adjusted rankings for the entire 1964-1981 period as reported in Chapter II. The regression-adjusted rankings of State 3 fell within the first quintile for voluntary quits, misconduct, and job refusals, and in the fourth quintile for able/available issues.

The high rates at which determinations lead to denials for separation issues in State 3 appear to be caused by its two-level definition of eligibility requirements and the corresponding two-level definition of penalties. Claimants can be denied benefits for misconduct if they are discharged for almost any other reason than the lack of work, but the penalty imposed is only five to ten weeks without benefits, rather than disqualification for the duration of employment if the discharge were for gross misconduct. Similarly, claimants can be denied benefits for a period of five to ten weeks rather than for the duration of unemployment if they quit without good cause but can demonstrate valid personal circumstances justifying their action.

The milder penalty that can be imposed with less evidence against the claimant appears to affect both the nature of the determination process and the decisions of adjudicators. Agency respondents reported that almost any voluntary separation or discharge would lead to denial, and that the hearing process, which typically involves only the claimant and the adjudicator, usually focuses on the severity of the penalty which would be appropriate.

Although the definition of gross misconduct in State 3 closely resembles the definitions of simple misconduct in the other states, there is some evidence that the availability of the lower-level denial penalty may lead to some laxity in detecting issues and undertaking fact-finding for the purpose of determinations. For instance, some respondents suggested that many claimants simply wait ten weeks after separation before applying for benefits (i.e., voluntarily "self-serving" their penalties), knowing that they would be disqualified for ten weeks at most under the milder penalty. It may be that in such circumstances the agency places little emphasis on determining whether it should impose the more severe penalty that requires reemployment and substantial earnings. The fact that the milder penalty is imposed in two-thirds of misconduct denials suggests either a weak search for misconduct issues under the more stringent standard of gross misconduct, or a tendency to categorize gross misconduct issues as simple misconduct. If State 3 were ranked on the basis of its denials for gross misconduct (for which the definition corresponds with the description of the claimant's behavior used to define misconduct in the other five states), it would rank in the fifth rather than in the second quintile.

High rates in State 3 for turning nonseparation determinations into denials appear to be associated with the low rate at which determinations are made. Most likely, given a number of relatively weak spots in the procedures for detecting issues, only the most obvious issues reach determination, and, hence, the likelihood of denial is high. Four weaknesses in detection emerged from our examination: (1) a narrowing of the scope of potential able and available issues based on eligibility rules; (2) a low likelihood of referral by the employment service, and thus a low exposure of claimants to the risks of job refusal or the detection of availability issues; (3) inconsistent adherence to state policy with respect to work-search requirements; and (4) infrequent administration of ERP interviews.

The scope of continuing-eligibility issues that can potentially arise in State 3 is somewhat narrowed by legislation and regulations that allow claimants who become ill or disabled to continue drawing benefits until they are offered a job referral or position, at which time they must demonstrate an ability to work in order to remain eligible. Although such instances may occur relatively infrequently, in State 3 they will not lead to a determination, whereas they should in other states.

The likelihood of exposing claimants to job referrals is low in State 3 because of its loose employment-service registration procedures. Initial claimants are excused under state policy from the registration requirement if they expect to be recalled within ten weeks, a long period compared with other states. Moreover, even those who are required to register are normally placed in an "inactive status." Brief information on their skills and experience is recorded and filed, but is not entered in

the active files from which candidates for referral are usually selected. No attempt is made to match these claimants to jobs unless "active status" (voluntarily registered) individuals do not constitute enough referrals to meet the demands of employers. This approach to registration most likely holds down the rates at which both able and available and refusal issues arise.

Although state policy requires ongoing claimants to engage in active search if they do not expect to be recalled within ten weeks, we detected inconsistent adherence to this policy. One office, although it required claimants to report employer contacts, did not appear to enforce this requirement by holding a determination when insufficient contacts were reported. The other office, according to a respondent, did not require claimants to make any employer contacts until after ten weeks of unemployment. These practices reduce the chances of detecting availability issues.

Finally, the difficulties faced by State 3 in adhering to a schedule for ERP interviews weaken its ability to detect issues. Although ERP interviews are supposed to be held every ten weeks, the average interval when we conducted our site visit was thirteen weeks. In fact, it was reported that some claimants are never scheduled for ERP interviews. In the urban office of State 3, about 20 percent of scheduled ERP interviews were reported to lead to determinations for failing to appear; thus, difficulties in scheduling these interviews clearly reduce the number of issues that can be found.

4. State 4

The denial-rate pattern of State 4 is dominated by its very low frequency of determinations. For issues pertaining to voluntary quit, misconduct, and able/available for work, State 4 ranks at the very bottom of the fifth quintile in determinations made, and it ranks in the third quintile for refusal-related determinations. However, the rates at which determinations lead to denials do diverge. For determinations on voluntary-quit and able/available issues, State 4 ranks in the first quintile for denials as a percentage of determinations. For misconduct and refusal issues, conversely, it ranks in the fourth and fifth quintiles, respectively. Overall denial rates are correspondingly low—in the fourth quintile for refusal issues and in the bottom of the fifth quintile for all others. The pattern of determination and denial rates in State 4 appears to be heavily influenced by three factors: (1) very restrictive rules on valid reasons for voluntary separation; (2) the possible deterrent effects of intake procedures and denial penalties; and (3) a more casual approach than seems to be true in some other states for investigating initial claims and reviewing ongoing claims.

Of the six states we visited, State 4 is the only one which does not allow personal reasons to justify voluntary separation, and requires that all quits be for reasons attributable to the employer. If the potential claimant population of this state behaved like the corresponding populations of other states—quitting for personal reasons and then applying for benefits at the same rates—we would expect State 4 to show a high rate of denial relative to other states. The opposite is true: determinations occur at very low frequency and almost always lead to

denials, although the net denial rate is very low. One possible explanation for this pattern is that the potential claimant population in this state is aware to some degree of the narrow definition of good cause for quitting, and, as a result, is less likely either to leave jobs voluntarily or to apply for benefits when they do leave voluntarily.

The possibility that information about the UI program may deter individuals from filing claims is supported by two other features of the program in State 4. First, unlike any of the other states we examined, State 4 provides orientation information about program-eligibility requirements to applicants before they complete the required claims forms, and allows a week-long interval between the initial intake contact to identify separation issues and the stage at which the agency collects fact-finding information from the claimant. Some possibility exists that when claimants learn about the eligibility rules, and the possibility that they might not be eligible, they may refrain from following up a week later with a claim and fact-finding form. However, agency staff did not believe that this situation occurred with any significant frequency. If such situations do in fact arise, however, State 4 would not recognize that a determination was made. It is also worth noting that State 4 imposes about the most severe denial penalty for quitting without good cause: disqualification for the duration of unemployment and until the claimant is reemployed for five weeks and earns ten times the weekly benefit amount. The regression analysis results showed that more severe denial penalties for voluntary leaves are associated with lower denial rates, which our hypotheses suggested would be caused at least in part by a lower likelihood that ineligibles would apply for benefits. We suspect that the difficulty of

requalifying for benefits in State 4 deters some individuals from applying if they believe they quit without an acceptable cause. Given the narrow definition of good cause in State 4, the deterrent effect of the severe penalty would affect more individuals than would a comparable penalty in other states.

Procedures for reviewing initial and ongoing claims are less rigorous in State 4 than in States 1 and 2, and may contribute to the low frequency of determinations. Relative to the other states, intake procedures in State 4 do not seem to require as stringently that employer responses on separation reasons be obtained before awarding benefits. If the claimant's application has not raised any separation issues, and if the employer's response is not received within seven days, the agency will not initiate a contact with the employer and will proceed with processing the claim. Thus, it is possible that some quits without good cause or some discharges for misconduct will not be detected if the employer is either indifferent to or ignorant of the possible effects of the benefit award on his account. Reviewing ongoing claims also seems to be undertaken less carefully than in other states. Although State 4 requires ongoing claimants to list two employer contacts on two different days of the week, scrutiny of these reported contacts appears to be minimal. Only the most outrageously apparent fabrications of employer contacts, according to agency respondents, will lead to initiating a determination. Employer contacts are not verified.

As was noted in Chapter IV, a high proportion of initial claims in State 4 are filed by employers for temporarily laid-off claimants, and it is worth considering whether this procedure could explain the very low rate

of determinations. When employers submit initial claims on behalf of their employees, they are probably less likely to be questioned than if the same employees were required to file their own claims. Consequently, the agency would probably avoid making determinations on individuals whose circumstances of separation do in fact qualify them for benefits. Thus, such a practice should lead to a lower determination rate and to a higher rate of denials as a percentage of determinations, but should not affect the overall denial rates. The fact that the overall denial rate in State 4 is very low suggests that other factors, such as those described earlier, are more important.

The extremely low rates of determinations and the very high rates at which determinations lead to denials in State 4 may also partially be a product of the fact that the state performs adjudications centrally for potentially disqualifying issues. As was pointed out in Chapter IV, adjudicators in State 4 base their determinations primarily on written material forwarded by local office fact-finders; however, local fact-finding in State 4 does not require any hearing which involves both the claimant and the employer. Thus, it is possible in some cases that central adjudicators make their decisions without good knowledge of the facts. The very high rate at which centrally performed determinations are appealed in State 4 may indicate the respective parties' simple distrust of what seemingly is a remote decision process, or it may indicate that adjudicators' decisions have a tendency to be at odds with the facts. The latter hypothesis is supported to some extent by the high rates at which both claimant- and employer-initiated appeals succeed in overturning the determination decision. In 1982, the rates at which appeals reversed

determination decisions in State 4 ranked among the top three states for employer-initiated appeals and in the top eight for claimant-initiated appeals.

5. State 5

Overall denial rates in State 5 are among the lowest in the country, ranking in the fifth quintile for all four nonmonetary eligibility factors examined in this study. However, these low denial rates are due to an interesting pattern of determination rates and denials as a percentage of determinations. For quit-related issues, State 5 ranks near the bottom of the fifth quintile for determinations and in the fourth quintile for denials as a percentage of determinations. For misconduct issues, the state ranks among the lowest for determinations, but in the highest quintile for the percentage of determinations that lead to denials. Determinations for able/available issues are performed very frequently (the state ranks in the first quintile), but lead to denials less than 15 percent of the time (which ranks State 5 in the lowest quintile for denials as a percentage of determinations). Finally, refusal-related determinations occur very infrequently (at a fifth-quintile rate) but frequently lead to denials (ranking the state in the top of the second quintile for this measure).

Based on our site visit, it appears that State 5 is generally poorly equipped to detect potential eligibility issues and to report actions as determinations. Consequently, only the most clear-cut issues are likely to reach the determination stage, and, hence, denial rates as a percentage of determinations could be expected to be quite high. This general observation is based on (1) the state's process for informally

screening potential issues at intake, and (2) the absence of any effective employment service registration or work-search requirements.

Separation issues that would lead to determinations in other states appear to be resolved frequently in State 5 before the investigation reaches the point at which it is formally recognized as a determination. Responding to pressures to adhere to time standards for granting initial payments and resolving determinations, State 5 conducts initial fact-finding discussions with both the claimant and the employer immediately upon discovering a potential issue at intake. When these discussions indicate no reason for denying benefits, no determination is counted in the state's records, since no claim has yet been submitted for a benefit week. This screening process undoubtedly contributes to the extremely low frequency with which determinations are made for separation issues.

A number of procedures in State 5 make it unlikely that ongoing eligibility issues will be detected. First, requirements for registration with the employment service are extremely liberal compared with other states, and do not appear to be consistently adhered to. Only claimants who do not expect to be recalled within thirteen weeks are supposed to register, and the offices we visited did not appear to enforce registration requirements in keeping with policy. One office excused initial claimants from referral to the employment service if they had <u>any</u> prospect for recall; the other office referred unattached claimants only <u>after</u> thirteen weeks of unemployment. Moreover, the state has no requirement for active work search. Claimants can thus satisfy availability requirements by expressing only a passive interest in their willingness to work, rather than demonstrating that they are actively engaged in work search.

Questions posed on weekly claim cards allow claimants to interpret their behavior rather than to state simple facts (e.g., "Did you refuse work without good cause?"). Finally, State 5 insists that information about job refusals come from the employer or employment service; the agency will not note any refusals reported voluntarily by claimants, nor will it initiate a determination based on such a report. Given the very low likelihood that the employment service will refer claimants to employers, failure to act upon claimants' reports severely reduces any chances the agency has of detecting those refusals that do occur.

In light of these general expectations about low determination rates, some explanation is clearly necessary for the anomalously high incidence of determinations for able/available issues in State 5. One possible explanation lies in the state's approach for scheduling personal appearances for claims filing and ERP interviews: appearances are scheduled for a particular day and hour, failure to appear at the right hour is noted on the claims file, and upon the third such occurrence a determination is initiated to determine whether the claimant is available for work. Relying heavily on personal claims filing would raise the incidence of such determinations, and, indeed, heavy personal filing was reported in the urban office we visited. We suspect that claimants may have difficulty complying with this tightly scheduled approach for personal reporting, even when their difficulty does not necessarily reflect their unavailability for work. This interpretation is borne out by the low rate at which determinations for able/available issues lead to denials. Thus, although State 5 may have little chance of detecting inadequate claimant responses to job or referral offers, frequent occasions may occur when a failure to comply with reporting procedures leads to counted determinations.

When detection procedures are weak, we expect only the clearest issues to reach determination and, hence, a high percentage of determinations to lead to denials. This is true for misconduct and refusal issues in State 5. For quit and able/available issues, however, the state ranks very low. With respect to quit issues, we attribute the low rate to a fairly liberal definition of personal reasons as good cause for quitting. With respect to able/available issues, State 5 also seems relatively liberal in that it allows claimants somewhat greater latitude in restricting the scope of their job search and availability than do other states. Claimants are allowed to limit the hours and shifts they will work, and there is no recognized rule of thumb in local offices about how quickly and to what extent claimants should adjust their job expectations as time goes by. Thus, the standards by which issues are to be judged when determinations arise do not provide a particularly strong basis for denials.

The low rate at which determinations on able/available issues lead to denials is probably caused most directly by the high rate at which determinations are made and the frequency with which they arise from procedural rather than substantive situations. The rate may also be held down by the relatively moderate standard for availability set by the state, which requires the claimant to be available for work for the majority of the week. Since two days of unavailability do not justify a denial, it is probably rare that determinations prompted by claimants reporting at the wrong time lead to denial.

6. State 6

The denial-rate pattern of State 6 resembles the patterns of State 4 and 5. Overall, denial rates are low—in the fifth quintile for quit, misconduct, and able/available issues, and in the bottom of the third quintile for refusal issues. These denial rates reflect the pattern of determination rates, which are also in the fifth quintile for the first two areas, in the bottom of the fourth quintile for able/available, and in the bottom of the third quintile for refusals. Like State 5, this state also ranks quite high in the rate at which misconduct-related determinations lead to denials (in the first quintile). The rate of denials compared with determinations is moderate (in the third quintile) for quit and refusal issues, and very low for able/available issues.

For both separation and nonseparation issues, we identified certain procedures which probably contribute to the relatively low rates at which determination issues are raised. At intake, the procedures in State 6 do not take advantage of information as fully or actively as do procedures in other states, particularly in States 1 and 2. For example, claims interviewers are explicitly not to note separation issues that might be suggested by claimants' answers to intake-form questions; they are to note issues that pertain only to the claimants' ability to and availability for work. A separation-issue determination arises only when an employer protests. Moreover, procedures are not the most favorable for obtaining employer information that could lead to a determination. The form that might elicit an employer protest is somewhat ambiguous, asking simply whether any reason exists to question the claimant's eligibility, rather than asking for the reason for separation. The form sent to employers

demands a detailed written explanation of circumstances in order to support a protest. The burden placed on employers to lodge a protest is clearly greater in this state than in States 1 or 2.

Before conducting a formal determination, claims examiners in State 6 often want to confirm the existence of a reasonable cause for denial, by clarifying information provided by employers before scheduling a determination hearing. The necessity for such clarification arises most frequently for misconduct issues, for which the determination rate in State 6 ranks lowest. State 6 respondents noted that, although there is no intention to discourage employers from continuing with a protest, a significant number of such clarification discussions between the examiner and the employer lead simply to dropping the issue. This clarification process thus contributes to the low determination rate for separation issues.

Nonseparation issues seem relatively unlikely to arise in State 6 because of the minimal work-search requirements and the lack of resources for ERP interviews, at least during our site visits. State 6 has no blanket work-search requirement which affects all unattached claimants, as do States 1 through 4. Registration with the employment service fulfills the legal requirements for labor-market exposure. If claims staff question the strength of a claimant's connection to the labor market, they can require claimants to file personally and to document active work-search efforts; however, fewer than 1 percent of all claimants are in fact required to do so. For all other claimants, no regular report of employer contacts is required.

In addition, the thoroughness of ERP interviews in State 6 was severely undermined by staffing cuts. Consequently, ERP interviews in one office were being held every eight weeks as scheduled only for claimants classified as open to a particular question about their availability and labor-market attachment--namely, those in high-demand occupations or those unemployed for a long time. For other claimants, ERP interviews had slipped to intervals of twelve or more weeks. In the other office, staffing problems cut back the frequency of ERP interviews, such that none had been conducted for a period of over five months prior to our visit.

Despite these problems, which could be expected to keep non-separation issues to a low level, it is worth noting that the rate for refusal-related determinations in State 6 is higher than for other issues, as is the rate at which these lead to denials. One possible explanation is that, more than the other states we examined, State 6 attempts to use the employment service to place UI claimants. At the time we visited, the agency had set a target that called for 19 percent of employment service referrals to be allotted to claimants. This policy may lead to more referrals for UI claimants than is true elsewhere and, consequently, to more situations in which the claimant's response to the referral is open to challenge. The policies in State 6 seem to suggest that claimants who are eager for work will conduct work-search activities independently, and that little purpose is served by forcing all claimants to provide a routine list of employer contacts. On the other hand, the agency accepts a greater responsibility for using its own resources to direct claimants toward job opportunities than do the other states we visited, and, hence, expose more claimants to situations in which they could refuse jobs.

C. GENERAL CONCLUSIONS ABOUT THE NONMONETARY DETERMINATION PROCESS

Despite the cautions expressed earlier about the difficulties in drawing clear and definite inferences from our observations of a limited number of states and based on relatively qualitative data collection methods, it is important to provide some assessment of what we have learned from the regression and process analyses. Our general conclusions are presented here with the full recognition that they can serve only as guidelines for new policy and management initiatives, not as prescriptions for success. The discussion below deals with five topics: (1) the importance of issue detection relative to fact-finding and adjudication; (2) factors that appear to affect success in detecting potential eligibility issues; (3) the significance of the severity of penalties imposed for denials; (4) the importance of clear policies and procedures; and (5) the organization of the fact-finding and adjudication process.

1. "Finding Issues" vs. "Deciding Issues"

State denial rates may vary to some extent because of differences in the behavior of potential claimants. Population characteristics and the public's perception about the UI program may lead to differences in the rates at which unemployed individuals file for benefits, or the rates at which individuals take actions leading to their unemployment. However, it appears to us that much of the variation in denial rates among the six states we examined can be attributed to differences in how well the states are able to deny benefits to individuals who have claimed benefits but who do not conform to program requirements. This denial process consists of three stages: (1) the definition of policy which states eligibility requirements; (2) the policies and procedures which detect potential

eligibility issues pertaining to individual claimants; and (3) the process of fact-finding and decision-making on identified issues.

Given a stated set of eligibility requirements, we quite strongly conclude that a state's ability to deny benefits to the ineligible population will depend on the effectiveness with which it detects determination issues, rather than on the consistency with which its determinations lead to denials. States with high determination rates also have high denial rates; moreover, even when a state denies benefits in a very high percentage of determinations, the net denial rate will be low if the determination rate is also low.

Determination rates dominate net denial rates in part because they vary more widely than does the rate of denial as a percentage of determinations. In Table V.1, the standard deviations divided by the mean are presented for the six sample states and for all fifty-one state jurisdictions. This useful measure of variability is consistently higher for the rate of determinations than for denials as a percentage of determinations. The data on which this table is based provide clear examples of this difference. In the six-state sample we find that determination rates for voluntary separations ranged from about 21 determinations per 1,000 contacts to over 100, whereas denials as a percentage of determinations for the same issue ranged only between about 73 percent and 94 percent.

Determination rates vary more than the rates at which determinations lead to denials for several reasons. The process of fact-finding and adjudication is more administratively confined than the process of identifying determination issues. Fact-finding and adjudication are

TABLE V.1

VARIABILITY OF RATES OF DETERMINATION AND DENIALS/DETERMINATIONS
(Standard deviations/mean)

	Six-State Sample		51 State Jurisdictions	
Eligibility Issue	Determination Rate	Denials as Percent of Determinations	Determination Rate	Denials as Percent of Determinations
Separation Issues	.71	.17	.56	.20
Nonseparation Issues	.79	.44	.65	.30

conducted by a smaller set of staff, whose actions and decisions can be scrutinized and reviewed more closely than is true for the broader set of claims takers and clerical staff whose functions contribute to issue detection. The adjudication process is constrained by legislative and judicial due process and timeliness standards, and is therefore difficult to modify by management decision. Moreover, the adjudication process within a particular state has its basic ground-rules in state policy, which may be more or less explicit but is relatively stable. The frequency with which issues are detected, however, is affected not only by eligibility policy, but also by a wide range of administrative guidelines and procedures that may vary from office to office in their application, and that may be adhered to closely or loosely depending upon available staff resources, the pressure of claimant traffic, and the level of agency management control. Consequently, the rates of issue detection we observed vary much more than the ability of states to deny benefits for identified issues.

By implication, there is considerably more room for policy and management initiatives to improve the detection of determination issues than there is to improve the adjudication process itself. In fact, using the rate at which determinations lead to denials as a performance measure would serve little purpose. Based on our examination of these six states, it appears that where denials as a percentage of determinations are unusually high, the high rate most likely reflects deficiencies in issue detection rather than a particularly effective adjudication process.

Casting the "detection net" more broadly to expand the catch of issues for determination appears to be associated with less "efficient"

detection, in that a higher percentage of issues will be resolved by awarding benefits. However, the aim of the overall determination process is not to deny benefits efficiently; it is to ensure that a high percentage of ineligibles are denied, and that the procedures followed convey to claimants the agency's seriousness about enforcing eligibility standards. Increasing denials by a process which examines more cases, considers them equitably, and ends up denying benefits for a lower percentage of determinations is consistent with those goals.

Achieving a higher rate of determinations, however, has cost implications. Increased staff resources may be necessary to achieve the higher rate of detection, and increased resources are very likely to be necessary to process more cases through adjudication. Once a state's MPU for nonmonetary determinations is set, increasing the number of determinations performed will lead to increased federal reimbursement for administrative costs. If, however, detecting additional (and possibly more complex) issues requires a greater average labor effort than do issues currently found, the increase in federal reimbursement may not adequately cover the extra state cost. In the longer term, investing administrative resources in a tighter detection effort and more determinations may raise a state's MPU and thus increase the rate at which the state's determinations are reimbursed. The increase in federal reimbursement, however, may not match the increase in the resources devoted to tighter detection by the state, since there is no assurance that state requests based on the MPU will be accepted as submitted in the funding decision process. In both the short and long terms, therefore, resource constraints must be kept in mind if an effort is to be made to increase the rate of determinations.

Raising determination rates within resource constraints requires assessing the effectiveness of current detection methods and considering alternative uses of staff. Among the six states we examined, for example, considerable variation exists in the relative importance attached to the routine reporting and review of employer contacts as a method for identifying work-search deficiencies and availability issues, as opposed to a more tailored scrutiny of how well individuals are demonstrating the type of work-search effort reasonably suited to their employment history and prospects. These represent two very different uses of resources for detecting issues. We will return to this issue of reporting and review in the next section.

2. Factors Affecting Determination Rates

Our examination of the six sample states uncovered differences in the methods by which the UI agencies detect eligibility issues for determination. This section provides a summary of which approaches appear more effective than others.

Before pointing out state detection procedures that seem effective, it is appropriate to acknowledge that determination rates are not a perfect measure of the ability of an agency to identify issues. Some states, such as States 5 and 6 in our sample, perform some type of informal investigation upon detecting a potential issue in at least some cases, and, hence, drop some issues before they reach the point at which they are counted as a determination. Some state procedures tend to create issues that revolve around the ability of the claimants to comply with reporting procedures that only rarely warrant benefit denials. For example, the high rate of able/available determinations in State 5 seems to be caused by

reporting practices rather than by the detection of substantive issues. Thus, determination rates may understate or overstate an agency's ability to find substantive questions about a claimant's eligibility.

Procedures that lower determination rates by resolving some issues through informal inquiry prior to determination could be viewed as an effective management tool because they hold down the burdens and costs imposed on the determination process. However, if dropping issues prior to determination is indicative of a general tendency to avoid recognizing issues and bringing them to determination, and if it reflects inadequate management attention to the importance of finding issues, it instead becomes part of a larger problem to be addressed. The states we observed which did undertake some type of screening, even though it may not explicitly be recognized as such, generally follow less active and persistent procedures for detecting issues. States 5 and 6 have relatively weak procedures for obtaining employer input on separation issues, and take relatively little initiative themselves in identifying issues. They also do not impose an effective work-search requirement on most claimants, eliminating one potentially important way to test claimants' ongoing availability for work. Thus, even though the determination rate is not a perfect measure of issue detection, it must be viewed as an important indicator.

For detecting separation issues, we would emphasize two important practices that seemed to contribute to high determination rates in our sample of six states. The first recommended practice is to initiate the determination process based on information from claimants, employers, or the agency itself, rather than restricting acceptable sources for

identifying particular issues. State 6, for instance, insists that separation determinations be initiated by employer protests, and will not initiate a determination on the basis of claimants' statements at intake. State 5 does not recognize ongoing claimants' reports of job refusals. It relies entirely on notification either by the employment service that the claimant refused a job to which he/she was referred or by employers at their own initiative that claimants refused jobs offered to them as a result of their own search activity. We frequently heard respondents from other states say that most issues arise from information presented by claimants. Although ignoring the statements of claimants which would indicate an issue might not guarantee that the issue will not be raised by another party, it seems likely that at least some issues will go undetected as a result.

Initiating a determination regardless of the source of information seems particularly important because of the possibility that some issues may be important to the agency but less important to the employer. For instance, employers paying a maximum tax rate may conclude that the burden of protesting a claim, documenting it fully, and participating in an adjudication hearing is unwarranted, since the individual case will have no direct effect on their tax burden. From the agency perspective, however, such an issue should be pursued, since each unmerited award of benefits contributes to program costs, and in the longer run places upward pressure on employers' taxes. The agency's concern for the integrity of the program is equivalent to a longer-run and broader-perspective view of employers' interests.

A second guideline for effectively detecting separation issues, and which clearly pertains to the first guideline, is to insist upon obtaining simple factual information from employers about separation reasons. Two practices we observed deviate from this principle. One was the failure to ensure that employers' responses about separation reasons are received before initial claims are processed. In states where forms are sent to employers and no follow-up is performed if the response has not arrived before the first weekly claim, it appears that the agency implicitly assumes that the purpose of the form is to allow the employer an opportunity to protest. Where persistent follow-up is undertaken to obtain an employer's response, procedures in effect recognize the principle that it is the agency and not the employer which bears responsibility for protecting the integrity of the eligibility process. When employers' responses are optional, real issues are likely to go undetected to some extent. The second practice that departed from the guidelines pertained to asking employers whether they have any reason to question a claimant's eligibility, rather than simply asking for a factual statement about the circumstances surrounding separation circumstances. The former approach allows employers to decide whether an issue should be pursued; the latter emphasizes the agency's role in making that judgment.

Determination rates for nonseparation issues seem to pertain to three general factors that vary from state to state: (1) the coverage of work-search requirements and the methods used to monitor compliance; (2) the purposefulness and frequency with which claimants are questioned about ongoing eligibility issues; and (3) the consistency with which ongoing claims are reviewed.

It seems clear that a formal requirement which stipulates that claimants engage in their own active work search is a necessary foundation for effectively assessing their exposure to the labor market as a measure of their availability for work. Without such a requirement, the UI agency has no basis for questioning any claimant's availability for work based on a lack of search effort, and it has no basis for implementing procedures to monitor work-search activity. Ironically, State 5, the only one in our sample with no formal work-search requirement at all, ranked very high in the frequency of able/available determinations, but the overall denial rate for those issues was so low that we concluded that procedural rather than substantive issues produced the high rate.

A formal work-search requirement is necessary but not sufficient to ensure that availability and refusal issues be identified. The procedural definitions of evidence required to document adequate work search also seem to affect the determination rate. Two major options seem available: (1) to require a minimum number of weekly contacts with employers and to report them on claim cards; and (2) to prescribe the the types of search efforts that are expected of claimants in their particular occupations, and to periodically review how well they are measuring up to such standards. Our process analysis indicates that either approach can be effective, but only to the extent that it is taken seriously. Without serious review of and consistent response to insufficient employer contacts, routine weekly reporting of contacts is open to serious abuse and may serve little detection purpose. In State 4, for example, employer contacts are regularly reported, but only the most apparent fabrications of employer names prompt determinations, and the frequency of determinations on

availability issues is at the bottom of the state ranking. Under the more flexible approach, in which claimants are clearly required to conduct independent work search but to report their activities only at fairly long intervals during ERPs, some possibility exists that less eager claimants will not feel compelled to look for work. In State 1, which uses this approach, it appears that sufficient resources are devoted to assessing the adequacy of individual search efforts, because the frequency of availability determinations ranks high in the second quintile. Either method can work if carried out thoroughly.

Determination rates and, consequently, denial rates also seem to depend on the purposefulness and frequency with which claimants' ongoing eligibility is questioned. Two particular aspects of ongoing eligibility review are important: the manner in which questions are posed to claimants on weekly or biweekly claim cards, and the frequency and substance of ERP interviews. Questions on claim cards should request simple factual statements from claimants, rather than allow them to judge whether their behavior is within eligibility norms and incorporate that judgment in their answers. For example, State 5, which asks claimants whether they refused a job without good cause, ranks in the fifth quintile for refusal-related determinations. This claim-card question probably does not account entirely for that low rate, but does probably contribute to it. Claim-card questions can usefully reflect an overall approach for identifying <u>possible</u> eligibility issues rather than clear ones. State 1, for example, asks claimants whether they were available for work during the entire week, even though one day of unavailability is acceptable. Asking the claimant whether he/she was available "every day but one" would indicate that

availability is not an absolute standard, and would perhaps encourage some claimants to shrink their periods of unavailability down to the apparently required size when completing their claims reports. State 1 ranks in the first quintile for able/available determinations.

For most claimants in the states we examined, the eligibility review process interview is the only time after the initial claim has been filed that the agency has personal contact with the claimant under routine procedures. The information uncovered in these interviews can raise issues, as can merely scheduling them and observing claimants' ability to appear at the requested time. The states we examined varied widely in the frequency with which they plan to and are able to schedule ERPs--from state 2, which holds them every four to seven weeks with unattached claimants, to State 5, which in practice conducted ERP interviews only every thirteen weeks on average. States that schedule more frequent ERP interviews tend to have higher determination rates for nonseparation issues.

The rigor and consistency with which ongoing claims reports are reviewed by UI staff also vary considerably from state to state, and are probably an important factor in the ability of states to detect ongoing eligibility issues. In some states, such as in State 2, it appears that the "wrong" answer to a claim-card question automatically prompts a determination, and action is taken on an insufficient number of employer contacts according to clear procedures for warning the claimant on the first occurrence and initiating a determination on the second. In others, such as in States 3 and 4, adherence to policy is spotty. In State 3, neither office we visited enforced employer-contact requirements according to state policy; in State 4, review of employer contacts was described as

cursory. State 2 ranks in the middle of the fourth quintile for all non-separation determinations, considerably above States 3 and 4, which rank, respectively, in the middle and bottom of the fifth quintile.

3. Importance of Denial Penalties

The severity of penalties imposed on denied claimants can potentially affect the integrity of the eligibility determination process and program finances in two ways. First, more severe penalties can affect the behavior of claimants and potential claimants. They may deter individuals from such actions as quitting a job or refusing a job. Knowing that benefits will be denied for the duration of unemployment is probably a stronger deterrent than knowing that benefits will be received after a fixed number of weeks of denial. More severe penalties may also be more likely to discourage individuals from applying when they suspect that their actions will render them ineligible, since denial effectively precludes the receipt of benefits. Both these effects were incorporated in our hypothesis about the effects of disqualification for the duration of unemployment on denial rates for voluntary separation, misconduct, and refusal. The more that individuals are deterred from such actions or discouraged from filing, the lower the denial rates are expected to be, and the regression analysis seems to support that hypothesis.

The second way in which the severity of penalties can affect the UI program is by influencing administrative behavior in the determination process. For purposes of formulating hypotheses for the regression analysis reported in Chapter II, we explicitly assumed that the severity of denial penalties does not affect the likelihood of denial once a determination is initiated. All of the six states in our process analysis

sample impose disqualification for the duration of unemployment for quit, misconduct, and refusal denials; thus, there is not much variation with which to test the possibility of such an effect. State 3, however, lends some support to the idea that the severity of the penalty can affect the likelihood of denial, without necessarily any clear policy directive. The two-level definitions of voluntary quit and misconduct in State 3 seem to give claims staff the option of imposing milder penalties based on less imposing evidence against the claimant. In effect, it becomes easier to justify denial and perhaps easier to deny benefits because the effects on the claimant are less severe.

Although penalties that deny benefits for a certain number of weeks may lead to more denial decisions than would disqualification for the duration of unemployment, the amount of new employment required to requalify after a disqualification is probably too subtle a variation to affect either claimant behavior or adjudicators' decisions. In our six-state sample, requalification requirements ranged from five to ten weeks of new employment earnings; two states also required four or five weeks of elapsed time in new employment. We could not discern any indication that tougher requalification requirements had any effect on either the tendency of claimants to apply for benefits or the tendency of staff to deny them.

Although less severe penalties may lead to more denials, we do not recommend milder penalities as sound policy, and particularly not as part of a two-level definition of violating eligibility rules. On the one hand, it appears to us that defining two degrees of violations may mean that issues which warrant denial under the more demanding standard may be inadequately pursued. On the other hand, this arrangement may mean that

both the claimants and the agency will exhibit a tendency to accept benefit denials under the looser standard without thoroughly developing the arguments that would support the award of benefits and no penalty.

Furthermore, less severe penalties, even if they lead to increased denial rates, may not restrain overall program costs more effectively. The regression results and some of our process-analysis observations suggest that more severe penalties may be associated with lower denial rates because they deter ineligibles from applying for benefits, and possibly deter behavior which leads to unemployment. UI benefits can be held down by this deterrent effect without the administrative cost of processing applications, perhaps to the same extent as increased denial rates.

4. Clear Policies and Standards

The states we visited varied dramatically in the extent to which they made UI policies and procedures available in a clear, organized form or even consistently recognized in more informal ways. At one end of the spectrum, States 1 and 2 have very detailed regulations that provide clear guidance on the requirements imposed on claimants and how eligibility requirements are to be interpreted and applied to a wide variety of claimant circumstances. In sharp contrast are states such as State 3, in which regulations do not provide definitions of nonmonetary eligibility requirements or interpretive guidance, and we could find no currently maintained, comprehensive set of procedures to fill this gap. Not surprisingly, we found that in states that had more comprehensive and detailed written policy and procedures, the staff's understanding of state policy was more accurate and more consistent.

Detailed and specific policies tend to restrict the amount of discretion that can be exercised by claims staff in considering each claimant's case. To the extent that the clarity of defined policy is effectively communicated to line staff, its effect should be to increase the consistency with which similar cases are treated in the determination process, which is a desirable end. One legitimate concern, of course, is that very detailed, specific regulations may make it impossible for determination decisions to respond to the subtle differences in individual claimants' situations which might not be differentiated in program rules. This problem was in fact described by some agency respondents in State 2. Although claims staff recognized that many claimants, particularly in rural areas, had few employment options open to them and few target employers to contact, they maintained that their specific regulations forced them to enforce work-search requirements rigorously.

Detailed and specific program guidelines, however, need not force claims staff into unreasonable enforcement activities, and probably provide greater protection for claimants than do nebulous and unwritten rules. For instance, the rules in State 2 could describe circumstances in which new employer contacts every week do not constitute a reasonable expectation. Even if procedures require claimants to report a specified number of employer contacts per week, state policy could also allow adjudicators to consider the occupations of individuals and their specific job markets in performing determinations prompted by insufficient reported contacts. Not having clear written rules, in contrast, makes it more difficult for adjudicators to justify their decisions, and more difficult for claimants to understand the standards they must meet and to prepare arguments in

their defense. Agency adjudicators then apply unwritten standards which may be quite differently understood and interpreted by different adjudicators, and leave claimants with no reasonable basis for predicting the relationship between their behavior and the adjudication outcome. In such circumstances, high standards of due process may be difficult to achieve.

5. Organization of Fact-Finding and Adjudication

Three variable factors were observed in the manner in which the sample states conduct fact-finding and adjudication. First, states varied in the extent to which they insisted on conducting all fact-finding within the context of a recognized determination process, as opposed to allowing some informal fact-finding and issue resolution before the process was considered a determination. Second, some variation existed in the extent to which states relied on in-person interviews with the claimant and (where relevant) the employer present, as opposed to telephone fact-finding and separate contacts with the employer and claimant. Finally, in one state, fact-finding was performed by one staff person in the local office, and the determination decision was formulated and written up by a different person in the state office. In all other states in our sample, fact-finding and adjudication were performed by the same person in the local office. Our examination of the six states leads us to three general conclusions about the effects of these variations.

The first conclusion, already expressed in other contexts earlier, is that a broad view should be taken of the types of information that justify inquiry and some form of determination. Identifying more issues, rather than trying to identify only those issues that stand a good chance

of leading to denial, seems more likely to lead to the effective denial of a high percentage of truly ineligible cases. However, casting the broad net for potential issues certainly increases the workload imposed on staff who conduct fact-finding and determinations.

Thus, the second conclusion is that agencies must obviously deal in some way with the workload burdens imposed by high frequencies in the determination process. We can distinguish between two approaches that we observed. Some states, by conducting some informal clarification and fact-finding before the formal determination process, are able to eliminate some issues before reaching the point at which a formal written decision and notification are necessary. This approach reduces the workload to some extent by avoiding part of the work required in a formal determination. The second approach is simply to improve the efficiency of the determination process. For example, State 2, with detailed regulations and a computer system capable of generating notifications (including standard text selected by adjudicators), maintains a production rate estimated at over 100 determinations per week by each adjudicator when work volume demands it. In contrast, State 6, with a completely manual system, sets a production target of one-quarter of the maximum production rate of State 2, and apparently has difficulty meeting that target.[1] To be sure, the tendency in State 2 to perform determinations whenever any issue is raised probably creates a determination workload which includes more

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[1] Study MPUs in these two states reflect these productivity differences. For FY 1983, State 6 had a study MPU of over 115 minutes on intrastate separation issue determinations, as compared with less than 48 minutes for State 2. MPUs for nonseparation issues were almost 75 minutes for State 6 and just under 35 minutes for State 2.

straightforward and quickly resolvable issues than would be true in State 6, in which some obvious issues are eliminated before reaching the determination process. This difference, however, does not seem likely to account for the substantial differences in overall productivity. As we observed earlier, issue screening seems very often associated with other practices that may prevent valid issues from being identified. Thus, improving the efficiency of the determination process seems to represent a sounder course for dealing with resource problems than would efforts to avoid the formalities of the determination procedure.

Finally, our observations in the six states underscore the importance of maximizing the information available to the adjudicator responsible for making determination decisions. This is important for the sake of rendering informed decisions that promote confidence in the thoroughness and equitability of the determination process, and to avoid frequent recourse to the appeals process. Two states that we examined pointed out this issue particularly clearly. State 4, which conducts most determinations centrally, ranks very high both in the frequency of appeals and in the frequency with which determination decisions are overturned in appeals. Although central adjudication was initially adopted to reduce the costs of determination, it is possible that the same decision has caused an increase in the cost of the appeals process, which in 1982 had to be undertaken for almost one of every four determination decisions. In State 2, although determinations are performed locally, for some reason employers tend not to participate in determination hearings, even when they may have raised the determination issue. Respondents reported that employers participate in fewer than 25 percent of determination fact-finding

interviews to which they are invited. However, the apparent result is that determination decisions are more likely to be challenged by employers, who in State 2 initiated appeals in 1982 on about 6 percent of all determinations, a rate exceeded in only one or two other states. Moreover, these appeals were unusually successful, resulting in a reversal about 38 percent of the time, a success rate which ranks among the three highest in the country.

There is obviously some tension between the goals of conducting determinations efficiently and maximizing the information that is developed through fact-finding. Insisting that employers and claimants be present for all fact-finding interviews in which both are relevant is not only infeasible but would also substantially increase the costs of the process, and in many cases unnecessarily. Some states conduct fact-finding hearings by telephone or perform separate contacts to gather information from the parties involved. No extreme solutions are suggested. However, two concluding suggestions are offered. First, determination decision-making by staff who are not involved in fact-finding, using primarily written summaries of facts and without personal contact with the parties, may be counterproductive. Second, states should encourage relevant parties to participate in a determination whenever it appears that their interests are at stake, and that there is some chance that they have further information or rebuttals to offer.