WAIVERS GONE WILD:

How states have exploited food stamp loopholes

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KEY FINDINGS

1

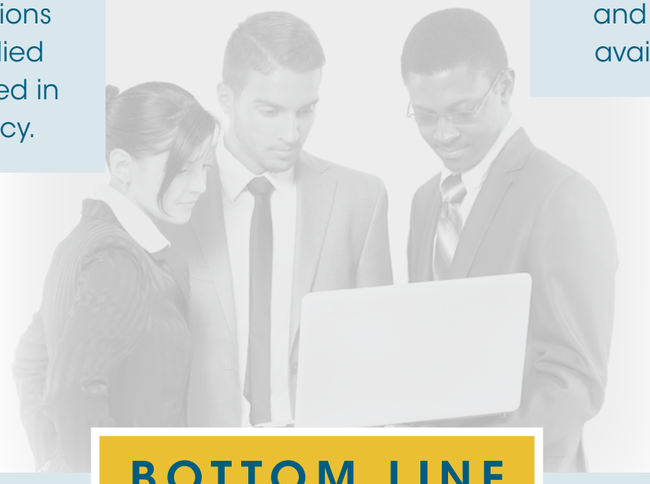
Waivers were intended to provide a temporary pause of work requirements during economic crisis, but federal loopholes have allowed states to game the system, keeping millions of able-bodied adults trapped in dependency.

2

The U.S. economy is booming, yet more than a third of the country still lives in an area where able-bodied adults are exempt food stamp work requirements.

3

States have abused the waiver process by gerrymandering areas and using old data, allowing them to waive work requirements despite near record-low unemployment and millions of available jobs.



BOTTOM LINE

Work requirement waivers are being abused. Congress and the Trump administration should take steps to close this massive loophole and rein in waiver abuse to protect resources for the truly needy and move able-bodied adults from welfare to work.

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From 2000 through 2008, the number of able-bodied, childless adults receiving food stamps hovered at or below one million.[2] But by 2013, a record-high 4.9 million able-bodied childless adults were receiving food stamps.[3] Since then, enrollment has only dropped slightly, despite a growing economy.[4]

The number of able-bodied adults dependent on food stamps has reached crisis levels. Despite near record-low unemployment, nearly 21 million able-bodied are enrolled in the program—three times as many as 2000.[1] Much of this enrollment explosion has been driven by childless adults.

What's causing this disconnect? States are using loopholes and gimmicks to waive commonsense work requirements for able-bodied adults on food stamps.

Federal law requires that most able-bodied, childless adults work, train, or volunteer for at least 20 hours per week as a condition of eligibility to receive food stamps.[5] These requirements apply to non-pregnant adults who are mentally and physically fit for employment, who are between the ages of 18 and 50, and who have no dependent children or incapacitated family members.[6] Able-bodied adults who refuse to meet these requirements are limited to just three months of food stamp benefits every three years.[7]

When it was first implemented in the 1990s, this commonsense work requirement moved millions of able-bodied adults from welfare to work and spurred rapid economic growth.[8]

Analyses of state-level implementation of the reform have reached similar conclusions. After Kansas implemented these work requirements, the number of able-bodied, childless adults on food stamps dropped by 75 percent and the average amount of time spent on welfare was cut in half.[9] Those leaving food stamps went back to work in more than 600 different industries and their incomes more than doubled, on average.[10] Higher wages more than offset lost benefits, leading to greater economic activity and higher tax revenues.[11] When Maine implemented the same work requirements, it saw similar impressive results: incomes of former enrollees more than doubled and caseloads declined by 90 percent.[12]

But this progress has been undermined by federal loopholes that have allowed states to weaken and waive the requirements for millions of adults. When Congress passed the work requirements into law in 1996, it gave the Secretary of the United States Department of Agriculture (USDA) the authority to waive work requirements in areas that had unemployment rates above 10 percent or otherwise lacked job opportunities for these able-bodied adults.[13]

But rulemaking by Clinton-era bureaucrats led to a regulation that is far more expansive than intended, creating loopholes and gimmicks for states to continue waiving work requirements for millions of able-bodied adults, even during periods of record economic growth. Worse yet, the Obama administration actively pressured states into waiving the requirement and keeping as many able-bodied adults trapped in dependency as possible. As a result, these commonsense requirements are waived wholly or partially in 33 states and the District of Columbia.[14]

America's economy is booming, but work requirements are still being waived

Although these waivers were meant only for areas with extremely high unemployment, states have continued to seek—and receive—waivers during periods of record low unemployment and record high job openings. At 4.1 percent, the nation's unemployment rate is near an all-time low.[15] More Americans are working today than at any point since the Bureau of Labor Statistics began tracking employment statistics, but that's still not enough: employers are searching desperately to fill a record-high six million open jobs.[16-18]

Of the nearly 1,200 counties, towns, cities, and other jurisdictions where work requirements are currently waived, just 42 have unemployment rates above 10 percent.[21] Nearly 650 of these jurisdictions have unemployment rates at or below five percent and more than 500 have unemployment rates at or below what the Federal Reserve considers full employment.[22] The waived jurisdictions have unemployment rates as low as zero percent—meaning work requirements are waived in areas with literally no unemployment. Despite claims that these areas are facing severe job shortages, the 33 states currently waiving the work requirement have more than a combined 3.3 million job openings posted online.[23]

Despite today's strong economy, states have waived or exempted nearly three million able-bodied adults from work requirements altogether.[19] With no work requirement in place for the vast majority of able-bodied adults without dependents, nearly three in four do not work at all.[20]

Loopholes let states waive work requirements

Although waivers were originally intended for areas with very high unemployment, Clinton-era regulations created massive loopholes that have been exploited ever since. These regulations have allowed states to manipulate old data, gerrymander jurisdictions, game the timeline, and use other "alternative procedures" to waive the requirement for as many able-bodied adults as possible.[24-25]

MANIPULATING OLD DATA

Federal law limits waivers to areas that have unemployment rates above 10 percent or otherwise do not have a sufficient number of jobs.[26] This reflects a present-tense requirement, indicating that the U.S. Department of Agriculture may only waive work requirements based on current economic conditions. But Clinton-era regulations and Obama-era guidance created an extended lookback period, allowing states to continue waiving work requirements long after any economic crisis has passed.[27-28] Under those rules, states can use unemployment data dating back as far as the period used to calculate labor surplus areas.[29] For fiscal year 2018, the lookback period could date as far back as January 2015, allowing states to use data from three years ago to support waiver requests, even when that data has no connection to current economic conditions.[30]

Massachusetts, for example, received approval to waive the requirement for 62 cities and towns based on unemployment data dating back to January 2015—three years before the waiver began.[31] In the time between January 2015 and when the waiver began, Massachusetts had cut its unemployment rate by nearly a third—down to a near record-low 3.5 percent.[32] But federal loopholes allowed the state to qualify for a waiver based on a period when its economy was weaker.

GERRYMANDERING JURISDICTIONS

Although federal law allows states to request waivers in specific areas with high unemployment, current rules allow states to combine counties, cities, and other jurisdictions together to form a single "area" for waiver purposes.[33-35] This loophole has led states to abuse this flexibility by gerrymandering areas together to waive the work requirement for as many able-bodied adults as possible. Officials from multiple states have admitted that they request "waivers in as many parts of the State as possible" as a way to "minimize the areas" subject to the work requirement.[36] States also often rely on software or analyses prepared by left-wing advocacy groups, including the Center on Budget and Policy Priorities, which are specifically designed to maximize the number of people states can exempt from the work requirement through waivers.[37]

West Virginia, for example, received a waiver for a gerrymandered group of non-contiguous counties by combining counties with relatively high unemployment and counties with low unemployment.[38] Likewise, Illinois received a waiver by combining all counties except one into a single "area," despite the fact that many counties did not independently qualify.[39] This assumes that there are only two economic "areas" in the state: DuPage county—part of the Chicago metropolitan area—and the rest of the state.

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California, for example, received a waiver that officially began in September 2017, the last month of fiscal year 2017. This allowed the state to use data going as far back as January 2014 to support its request, whereas it would have needed to rely on data that began in 2015 if the waiver had begun one month later. This made California eligible for a waiver based on unemployment levels as far back as 56 months before the current waiver expires in August 2018.

GAMING THE TIMELINE

Although the federal law based waivers on current economic conditions, regulations created an extended lookback period that allows states to waive work requirements even during periods of sustained economic growth. States have been gaming the timeline to use data older than expected. If a state begins a waiver in the last month of a fiscal year, rather than the first month of the next fiscal year, it is able to use an entire year's worth of even older data.[40]

Economic conditions four or more years ago have no relation to current conditions. California's unemployment rate in January 2014, for example, was 8.4 percent, compared to 4.3 percent the month the waiver became effective in September 2017.[41]

OTHER "ALTERNATIVE PROCEDURES"

Federal law established a statutory threshold of 10 percent unemployment to qualify for a waiver.[42] But the U.S Department of Agriculture created "alternative procedures" for states to qualify for waivers through rulemaking and guidance.[43-44] Under the regulation, states may qualify for a waiver due to a lack of sufficient jobs if it demonstrates that its unemployment rate was 20 percent higher than the national average.[45-46]

This "alternative procedure" has nothing to do with whether an area does not have a sufficient number of jobs or job openings, but rather indicates how the area's unemployment rate is performing relative to the national average. This means that some portion of the country will virtually always be granted waivers, even during periods of strong and sustained economic growth. If the national unemployment rate were one percent, for example, a state would be able to waive the work requirement if its unemployment rate were at least 1.2 percent.

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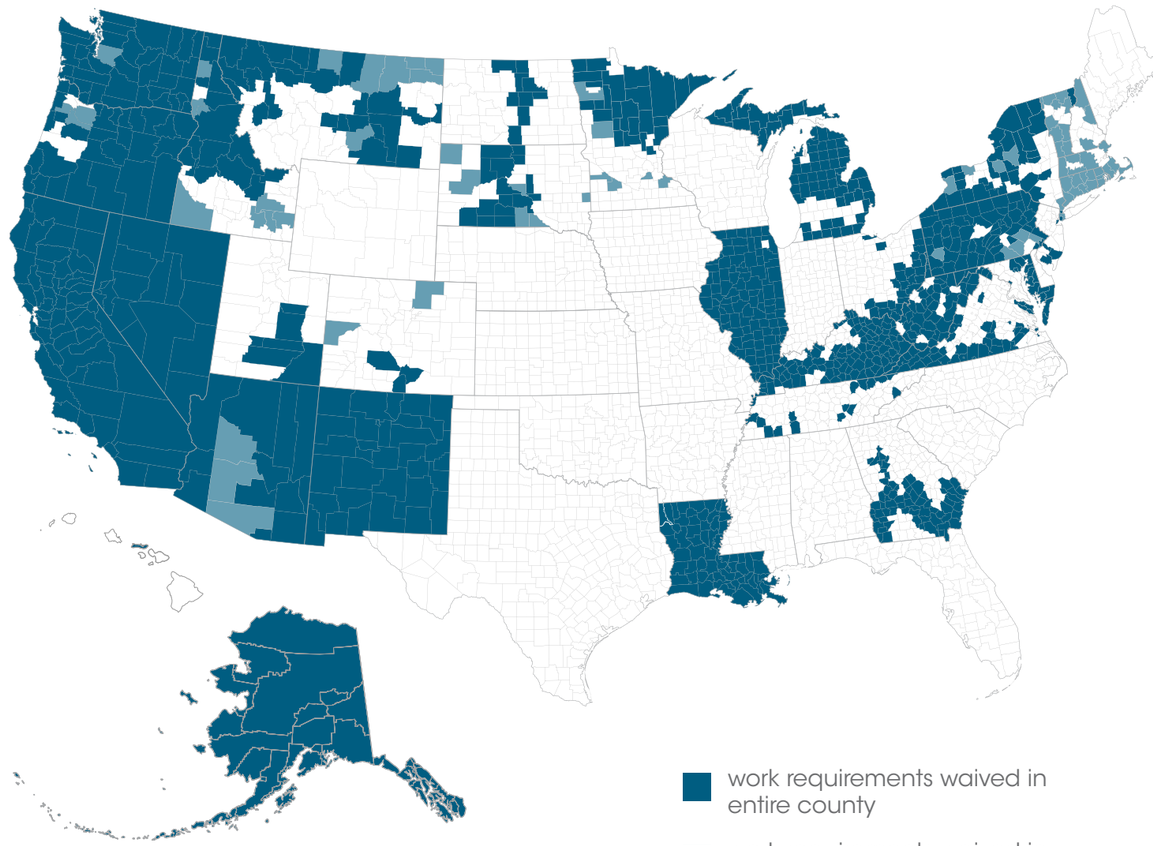
35% of Americans live in an area with no food stamp work requirements



Data obtained from USDA through freedom of information act requests.

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CALIFORNIA STATE SNAPSHOT

WAIVER STATUS:
Statewide

836,599

able-bodied adults without dependents on food stamps

Subject to work requirement: **0**

Percent not working: **78%**

Waiver Gimmicks

GAMING THE TIMELINE

California starts its waiver in September, the last month of the federal fiscal year. This exploits a regulatory loophole that lets them use unemployment data that dates back to January 2014 – more than 4 years ago.

GERRYMANDERING

California combined every county to achieve an average unemployment 20 percent higher than the national average. This leads to many counties receiving a waiver even though they would not independently qualify.

For example, San Mateo County's ***unemployment rate has not even reached 4%*** since September 2014, but work requirements remain waived entirely.

The Real Story

STATEWIDE UNEMPLOYMENT

4.2% in California as of December 2017

A record low.

OF 58 EXEMPTED COUNTIES IN CA

3 have unemployment rates above the 10% statutory threshold

30 have unemployment rates at or below 5%

21 have unemployment rates at or below 4%

In fact, according to Help Wanted Online, there are

559,296

available jobs in California.

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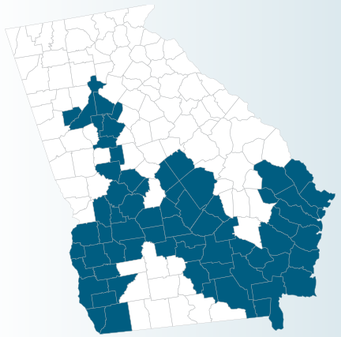
GEORGIA STATE SNAPSHOT



WAIVER STATUS:
Partial

Georgia has a "partial" work requirement waiver, exempting 66 of the state's 159 counties and runs from January 2018 through December 2018.

93,779

able-bodied adults without dependents on food stamps

Subject to work requirement: **41,422**

Percent not working: **78%**

Waiver Gimmicks

FUZZY MATH

Even with the combination of counties, Georgia had to use creative math to get their waiver. The national unemployment rate for the relevant time period was 5.0%. In order to qualify, Georgia had to meet a threshold of 20% above that average – or 6.0%. But Georgia's combined average unemployment rate for their 66 counties, by the state's own admission, was only 5.97%.

OLD DATA

Georgia's waiver relies on data that goes back to February 2015—more than three years ago. More recent data paints a much different picture of the state's economy. For example, Lee & McDuffie Counties have unemployment rates of just 3.9% as of December 2017. Just 12 counties currently have unemployment rates above 6%. And yet work requirements remain completely waived.

GERRYMANDERING

Georgia grouped 66 counties with unemployment rates that vary greatly. Many of these counties would not have qualified for waivers had they not been grouped together.

For example, Evans County enjoyed an average ***unemployment rate of just 5.23%*** over the 24-month period Georgia used for their waiver. 18 counties had average unemployment under 5%. But work requirements are waived entirely in these areas.

The Real Story

STATEWIDE UNEMPLOYMENT

4.3% in Georgia as of December 2017

A record low.

OF 66 EXEMPTED COUNTIES IN GA

0 have unemployment rates above the 10% statutory threshold

56 have unemployment rates at or below 6%

Current unemployment rates are as low as 2.6% in waived counties.

In fact, according to Help Wanted Online, there are

152,060

available jobs in Georgia.

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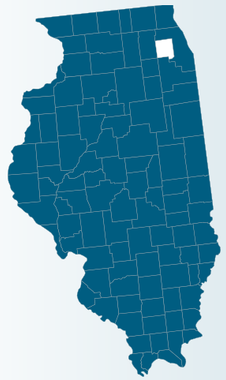
ILLINOIS STATE SNAPSHOT



WAIVER STATUS:

Partial

While Illinois technically has a "partial" work requirement waiver, the overwhelming majority of the state is exempted from commonsense work requirements. The current waiver exempts 101 of the state's 102 counties and runs from January 2018 through December 2018.

346,000

able-bodied adults without dependents on food stamps

Subject to work requirement: **9,000**

Percent not working: **74%**

Waiver Gimmicks

FUZZY MATH

Even with the combination of counties, Illinois had to use creative math to get its waiver. The national unemployment rate for the relevant time period was 4.95%. 20% above that rate is 5.94%. But Illinois' combined unemployment rate for their 101 waived counties was only 5.89% for the relevant time period, lower than the 5.94% needed to qualify for the waiver.

OLD DATA

Illinois' waiver relies on data that goes back to April 2015—three years ago. More recent data paints a much different picture of the state's economy. For example, Washington County, Illinois has an unemployment rate of 2.6%. 14 counties have unemployment rates under 4%, as of December 2017. And yet work requirements remain completely waived.

GERRYMANDERING

Illinois grouped 101 counties with unemployment rates that vary greatly. Many of these counties would not have qualified for waivers had they not been grouped together.

For example, Monroe County enjoyed an average ***unemployment rate of just 4.1%*** over the 24-month period Illinois used for their waiver. A dozen counties had average unemployment under 5%. But work requirements are waived entirely in these areas.

The Real Story

STATEWIDE UNEMPLOYMENT

4.7% in Illinois as of December 2017

A near-record low.

OF 101 EXEMPTED COUNTIES IN IL

0 have unemployment above the 10% statutory threshold

71 have unemployment rates at or below 5%

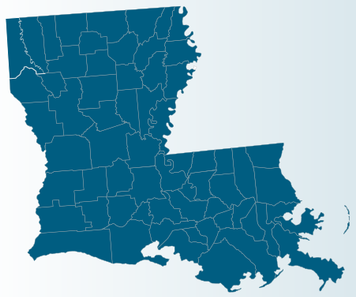
Current unemployment rates are as low as 3.7% in waived counties.

In fact, according to Help Wanted Online, there are

187,171

available jobs in Illinois.

LOUISIANA STATE SNAPSHOT



WAIVER STATUS:
Statewide

62,770

able-bodied adults without dependents on food stamps

Subject to work requirement: **0**

Percent not working: **76%**

Waiver Gimmicks

GAMING THE TIMELINE

Louisiana starts its waiver in September, the last month of the federal fiscal year. This exploits a regulatory loophole that lets them use unemployment data that dates back to September 2014 – ***3 and a half years ago.***

The Real Story

STATEWIDE UNEMPLOYMENT

4% in Lousiana as of December 2017

A near-record low.

OF 64 PARISHES IN LA

0 have unemployment rates above the 10% statutory threshold

45 have unemployment rates at or below 5%

20 have unemployment rates at or below 4%

Current unemployment rates are as low as 2.8% in waived parishes.

In fact, according to Help Wanted Online, there are

40,239

available jobs in Louisiana.

MICHIGAN STATE SNAPSHOT

WAIVER STATUS:
Partial

While Michigan has a "partial" work requirement waiver, the vast majority of counties are exempted from commonsense work requirements. The 2018 waiver exempts 69 of the state's 83 counties and runs from January 1, 2018 to December 31, 2018.

174,996

able-bodied adults without dependents on food stamps

Subject to work requirement: **28,932**

Percent not working: **75%**

Waiver Gimmicks

IGNORING AVAILABLE JOBS NEARBY

While some counties fall just above the 5.9% threshold for waivers, oftentimes they are nearby other job centers or areas with plentiful work.

For example, Delta County had an unemployment rate of 6.5% for the time period referenced in the waiver—still relatively low. But nearby Marquette County has an even lower unemployment rate of just 5.7%.

GERRYMANDERING

Michigan combined the unemployment rates of 69 counties to achieve an average unemployment 20 percent higher than the national average for the same time period – in this case, 5.9%. This leads to many counties receiving a waiver, even though those counties would not qualify on their own.

St. Joseph County enjoyed an ***unemployment rate of just 4.1%*** for the relevant time period, yet work requirements are completely waived.

Out of the 69 counties, 31 have unemployment levels below the 5.9% threshold – nearly half.

The Real Story

STATEWIDE UNEMPLOYMENT

4.4% in Michigan as of December 2017

Hovering near historically low levels

OF 69 EXEMPTED COUNTIES IN MI

5 have unemployment rates above the 10% statutory threshold

18 have unemployment rates at or below 5%

Current unemployment rates are as low as 3.6% in waived counties.

In fact, according to Help Wanted Online, there are

135,857

available jobs in Michigan.

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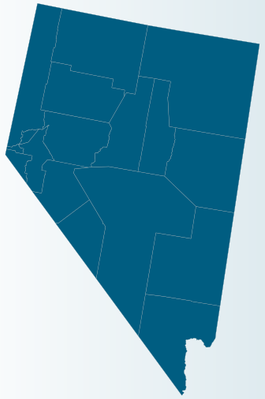
NEVADA STATE SNAPSHOT



WAIVER STATUS:
Statewide

94,055

able-bodied adults without dependents on food stamps

Subject to work requirement: **0**

Percent not working: **72%**

Waiver Gimmicks

OLD DATA

Nevada's waiver relies on data that goes back to May 2015—three years ago. More recent data paints a much different picture of the state's economy.

GERRYMANDERING

Nevada combined every county to achieve an average unemployment 20 percent higher than the national average. This leads to many counties receiving a waiver, even though those counties would not independently qualify.

For example, Eureka County had an ***unemployment rate of just 2.6%*** the month the waiver took effect. Nevada's gerrymandering allowed all counties to waive the work requirement.

The Real Story

STATEWIDE UNEMPLOYMENT

4.7% in Nevada as of December 2017

A near-record low.

OF 17 EXEMPTED CITIES AND COUNTIES IN NV

0 have unemployment rates above the 10% statutory threshold

14 have unemployment rates at or below 5%

5 have unemployment rates at or below 4%

Current unemployment rates are as low as 2.6% in waived counties.

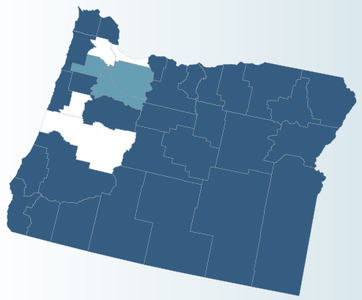
In fact, according to Help Wanted Online, there are

43,749

available jobs in Nevada.

OREGON

STATE SNAPSHOT



WAIVER STATUS:
Partial

Oregon has a partial work requirement wavier. While Oregon technically has a "partial" work requirement waiver, the overwhelming majority of the state is exempted from commonsense work requirements. The current waiver fully exempts 29 out of that state's 36 counties and part of an additional 3 counties, leaving just 4 counties fully subject to the work requirement. The current waiver runs from January 1, 2018 through December 31, 2018.

44,660

able-bodied adults without dependents on food stamps

Subject to work requirement: **17,588**

Percent not working: **64%**

Waiver Gimmicks

OLD DATA

Oregon's waiver relies on data that goes back to February 2015—more than three years ago—citing an unemployment rate of 6.1%. More recent data paints a much different picture of the state's economy.

GERRYMANDERING

Oregon combined many counties to achieve an average unemployment 20 percent higher than the national average. This leads to many counties receiving a waiver, even though those counties would not independently qualify.

For example, Wheeler County had an ***unemployment rate of just 4.65%*** for the time period cited in the state's waiver request.

The Real Story

STATEWIDE UNEMPLOYMENT

3.8% in Oregon as of December 2017

A record low.

OF 29 EXEMPTED COUNTIES IN OR

0 have unemployment rates above the 10% statutory threshold

16 have unemployment rates at or at or below 5%

5 have unemployment rates at or at or below 4%

Current unemployment rates are as low as 2.8% in waived counties.

In fact, according to Help Wanted Online, there are

72,460

available jobs in Oregon.

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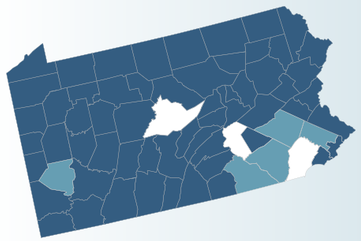
PENNSYLVANIA STATE SNAPSHOT



WAIVER STATUS:
Partial

While Pennsylvania technically has a "partial" work requirement waiver, the overwhelming majority of the state is exempted from commonsense work requirements. The current waiver exempts 59 of the state's 67 counties, plus 10 "minor civil divisions" for a total of 69 waived areas. The current waiver runs from January 1, 2018 through December 2018.

277,916

able-bodied adults without dependents on food stamps

Subject to work requirement: **48,860**

Percent not working: **73%**

Waiver Gimmicks

GERRYMANDERING COUNTIES

Pennsylvania combined the unemployment rates of 59 counties to achieve an average unemployment 20 percent higher than the national average. This leads to many counties receiving a waiver, even though those counties would not independently qualify.

For example, Adams County, Pennsylvania has an ***unemployment rate of just 3.9 percent*** during the relevant time period yet work requirements are completely waived.

GERRYMANDERING OTHER AREAS

Pennsylvania also combined the unemployment rates of random geographic areas in order to rig the outcome and waive additional areas that would not have qualified for waivers.

In what the state calls "Minor Civil Divisions Group 1," Pennsylvania combined York township and Springettsbury township–which had unemployment rates of 4.17% and 4.77%–with York city which reported an 8.53% unemployment rate. Neither of the townships would have qualified for waivers on their own. But by combining, all of these areas now qualify for waivers of commonsense work requirements, despite the two townships being beyond full employment.

The Real Story

STATEWIDE UNEMPLOYMENT

4.4% in Pennsylvania as of December 2017

A near-record low.

OF 59 EXEMPTED COUNTIES IN PA

0 have unemployment rates above the 10% statutory threshold

28 have unemployment rates at or below 5%

Current unemployment rates are as low as 3.2% in waived counties.

In fact, according to Help Wanted Online, there are

209,616

available jobs in Pennsylvania.

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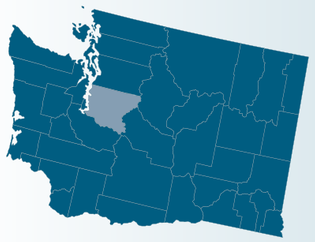
WASHINGTON STATE SNAPSHOT



WAIVER STATUS:
Partial

While Washington technically has a "partial" work requirement waiver, the overwhelming majority of the state is exempted from commonsense work requirements. The current waiver fully exempts 38 out of that state's 39 counties and part of an additional county, meaning no counties are fully subject to the work requirement. The current waiver runs from January 1, 2018 through December 31, 2018.

94,542
able-bodied adults without dependents on food stamps

Subject to work requirement: **13,932**

Percent not working: **73%**

Waiver Gimmicks

FUZZY MATH

Even with the combination of counties, Washington had to use creative math to get their waiver. The national unemployment rate for the relevant time period was 5.0%. 20% above that rate is 6.0%. But Washington's combined unemployment rate for the waived counties was only 5.98% for the relevant time period, 0.02% lower than the 6.0% needed to qualify for the waiver.

OLD DATA

Washington's waiver relies on data that goes back to July 2015—three years ago. More recent data paints a much different picture of the state's economy.

For example, Pacific County's unemployment rate in December 2017 was at 7.4%, yet if you look at that county's unemployment listed on the waiver the county's average is 8.87%.

GERRYMANDERING

Washington grouped 38 counties with unemployment rates that vary greatly, and many counties would not qualify for waivers had they not been grouped together. For example, San Juan County enjoyed an average unemployment rate of just 4.26% over the 24-month period Washington used for their waiver.

Further, Washington used a one county outlier to pull their average up dramatically. Ferry County has an unemployment rate of 10.61% for the 24-month period Washington used for their waiver – a 4.63% hike from the average rate for that same period.

The Real Story

STATEWIDE UNEMPLOYMENT

4.9% in Washington as of December 2017

A near-record low.

OF 38 EXEMPTED COUNTIES IN WA

1 has an unemployment rate above the 10% statutory threshold

17 have unemployment rates at or below 4%

8 have unemployment rates at or below 5%

Current unemployment rates are as low as 4% in waived counties.

In fact, according to Help Wanted Online, there are

143,681
available jobs in Washington.

The Trump administration should block waiver abuse

In April, President Trump issued an executive order directing agencies overseeing welfare programs to strengthen work requirements.[47] The U.S. Department of Agriculture has also provided an advance notice of proposed rulemaking, seeking input on potential changes to the waiver process to move more able-bodied adults to self-sufficiency.[48]

In order to meet these objectives, the Trump administration should revise its rules to ensure states can no longer abuse the waiver process by using old data, gerrymandering areas together, or seeking waivers in periods of low unemployment.

1. STOP ALLOWING STATES TO GAME THE TIMELINE AND USE OUTDATED DATA

Current rules allow states to use data as old as four years old to demonstrate that areas have high unemployment rates. This ignores the current economic reality and means work requirements will always lag far behind the actual economic conditions. The Trump administration should revise the regulations to ensure that only current economic conditions are taken into account in the waiver approval process.

2. STOP ALLOWING STATES TO GERRYMANDER AREAS

Current rules allow states to gerrymander areas together, allowing states to combine areas with relatively high unemployment with areas with record-low unemployment to waive the requirement for as many able-bodied adults as possible. The Trump administration should revise the regulations to ensure only areas that independently qualify for waivers receive them.

3. STOP ALLOWING WAIVERS IN LOW UNEMPLOYMENT AREAS

Current rules allow states to qualify for waivers if their unemployment rates are somewhat higher than the national average, even if unemployment is at a record low and there are millions of open jobs. Congress set the statutory threshold at 10 percent to ensure only areas with objectively high unemployment waived the requirement. The Trump administration should revise the regulations to ensure only areas with unemployment rates above 10 percent qualify for waivers moving forward.

If the Trump administration reigns in the abuses of these waivers gone wild, it can move millions of able-bodied adults from welfare to work, boost the economy, and preserve resources for the truly needy.

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