

## The Structurally Locked Out

### When Employment Is Real But Compliance Is Impossible

***A significant population of expansion adults who work consistently are unable to reach 80 monthly hours due to employer decisions, labor market structure, or economic constraints rather than personal limitations.***

#### DeShawn's Story

DeShawn has worked at the same grocery store for three years. He shows up early, stays late when asked, and has never received a negative performance review. His manager describes him as reliable, responsible, a worker customers ask for by name. In three years of employment, DeShawn has never missed a scheduled shift.

In three years of employment, DeShawn has never worked 80 hours in a single month.

The math is straightforward and brutal. His manager caps all non-supervisory staff at 28 hours weekly, company policy designed to avoid triggering benefits obligations under the Affordable Care Act. Twenty-eight hours times four weeks equals 112 hours, which would comfortably exceed the threshold, except that months contain more than four weeks and schedules fluctuate with foot traffic. A slow week drops DeShawn to 22 hours. A holiday Monday means the store closes and he loses a shift. The manager hired a new employee and distributed hours across more workers. In practice, DeShawn averages 72 hours monthly, sometimes hitting 76, occasionally dropping to 65, never reaching 80.

He has asked for more hours. His manager sympathizes but explains that company policy prevents anyone at his level from working more without triggering full-time classification and benefits eligibility. DeShawn has applied for full-time positions when they open, but competition is fierce and seniority systems favor longer-tenured employees. He has looked for second jobs, but his schedule changes weekly and no other employer will hire someone who cannot guarantee consistent availability. The grocery store posts schedules on Friday afternoon for the following Monday through Sunday, leaving DeShawn unable to tell a potential second employer which hours he could reliably commit.

When the termination notice arrives, informing him that failure to demonstrate 80 hours of work activity will result in Medicaid coverage loss, DeShawn experiences something between confusion and rage. He works. He has always worked. He works every hour his employer allows him to work. The notice treats him as someone failing to meet obligations when the truth is that he is being denied the opportunity to meet them by forces entirely outside his control.

The enrollment specialist reviewing his case faces her own frustration. DeShawn does not qualify for any exemption category. He is not medically frail. He is not in treatment for substance use disorder. He is not caring for a child under six or a disabled family member. He is not enrolled in education or training. He is employed, healthy, willing to work full-time. The system has no category for someone whose employer has decided he will not reach compliance regardless of his own efforts.

What happens to DeShawn is not a failure of individual responsibility. It is a collision between policy design that assumes workers control their hours and labor market reality in which employers

control scheduling and deliberately limit hours to avoid obligations. The structurally locked-out are not refusing to work. They are being refused the work that would allow compliance.

## The Population That Falls Through Categories

Work requirement frameworks operate on implicit assumptions about labor markets and worker agency. ***The framework assumes that people who want to work can find work, that people who work can work enough hours, that compliance primarily reflects individual choices about effort and engagement.*** These assumptions create a system where non-compliance triggers intervention, remediation, and ultimately coverage termination because non-compliance signals behavioral problems requiring behavioral responses.

***For some portion of the non-compliant population, this framework fits.*** Someone who could work but chooses not to, someone who could work more hours but prefers not to, someone who fails to document work they actually perform due to administrative neglect, these people might respond to the consequences work requirements impose. The behavioral intervention might function as designed, encouraging work attachment and self-sufficiency.

***But another population exists for whom the framework fits nowhere.*** These are people who work consistently but cannot reach 80 monthly hours because employers will not schedule them for sufficient hours, because labor markets do not contain sufficient hours, because schedule unpredictability prevents assembling enough hours across multiple jobs. They are neither exempt nor non-compliant in the behavioral sense. They are structurally excluded by policy design that assumes conditions the labor market does not provide.

***Exemption categories do not capture this population because the categories are designed around incapacity rather than market failure.*** Medical exemptions cover people whose bodies or minds prevent work. Caregiver exemptions cover people whose family obligations prevent work. Student exemptions cover people whose education prevents work. Each category identifies a reason the individual cannot work, then excuses that individual from requirements based on their personal circumstances.

***Structural lockout operates differently.*** DeShawn can work. DeShawn does work. DeShawn wants to work more. His circumstances involve no personal incapacity requiring exemption. His circumstance is an employer who has decided that 28 weekly hours serves corporate interests better than 40 and a labor market that does not offer alternatives allowing him to accumulate additional hours elsewhere. The individual is capable and willing. The structure refuses to accommodate.

***This creates a category problem that exemption systems typically fail to address.*** Creating an exemption for people whose employers cap hours essentially creates an exemption for employment, which undermines the entire framework. Not creating such an exemption means that employer decisions about hour allocation determine who maintains coverage and who loses it, which transfers enormous discretionary power to employers who have no stake in the outcomes.

***The Urban Institute estimates that 44 percent of non-elderly adult Medicaid beneficiaries work but do not reach the equivalent of full-time hours.*** Some portion of this population works part-time by choice or circumstance that exemption categories capture. But a substantial portion, perhaps 15 to 25 percent of working expansion adults based on Bureau of Labor Statistics involuntary part-time data, work part-time because full-time hours are not available to them despite wanting more work. This population does everything work requirements ask except reach a

threshold they cannot reach because the threshold assumes labor market conditions that do not exist in their employment contexts.

## The Mechanics of Hour Caps

Understanding why employers cap hours illuminates why workers cannot simply solve the problem through harder work or better job searching.

***The Affordable Care Act requires employers with 50 or more full-time equivalent employees to offer health insurance to workers averaging 30 or more hours weekly or face penalties.*** This creates a powerful incentive for employers to ensure that workers who might trigger insurance obligations work fewer than 30 hours. The result is the **29-hour ceiling** that became ubiquitous in retail, food service, and hospitality after 2014.

Some employers enforce hour caps more aggressively than others, but the practice is widespread enough that it has become standard operating procedure in low-wage industries. Large retailers with sophisticated workforce management systems can track hours precisely, flagging any worker approaching 30-hour averages and reducing their schedules accordingly. The systems that optimize staffing to match customer traffic also ensure that hours are distributed in ways that prevent any individual from accumulating enough to qualify for benefits.

For workers in these environments, the hour cap is not a challenge to overcome through effort but a ceiling enforced by systems designed specifically to prevent them from reaching it. No amount of requesting additional shifts, demonstrating reliability, or performing well changes the fundamental mathematics. ***The employer has determined that workers will not work enough to trigger benefits obligations, and the worker's preferences are irrelevant to that determination.***

Second jobs theoretically offer an escape from single-employer hour caps. A worker capped at 28 hours at Job A could work 15 hours at Job B and reach 43 total hours, well above the 80 monthly threshold even accounting for weekly variation. In practice, schedule unpredictability makes this combination difficult or impossible to achieve.

***Just-in-time scheduling, where employers use algorithms and software to match staffing to predicted demand, means that workers often receive schedules only days in advance.*** A worker whose Job A schedule arrives Friday afternoon for the following week cannot commit to Job B shifts in advance because they do not know what conflicts might exist. Job B, reasonably, prefers to hire workers who can commit to consistent schedules rather than workers whose availability depends on what another employer decides each week.

***On-call scheduling compounds the problem further.*** Workers required to remain available for shifts that may or may not materialize cannot take other employment during those periods. The worker is not working but also cannot be working elsewhere. The expectation of availability without the guarantee of hours traps workers in relationships that consume schedule flexibility without providing sufficient work.

***The Economic Policy Institute found that 17 percent of workers experience unstable schedules,*** with substantially higher rates in the industries where Medicaid expansion adults concentrate. Research from the Shift Project, focused specifically on retail and food service workers, documented that workers at major employers receive median advance notice of only 7 days for their schedules, with substantial portions receiving less than 72 hours notice. These conditions make assembling stable hours across multiple employers not merely difficult but often impossible.

## Labor Markets Without Sufficient Hours

Even workers who escape employer-imposed hour caps may find themselves in labor markets where sufficient hours simply do not exist.

Rural labor markets illustrate this starkly. In metropolitan areas with diverse economies, workers who cannot find enough hours at one employer can theoretically seek employment elsewhere. ***In rural communities with limited employment options, the jobs that exist may not collectively offer enough hours to reach 80 monthly.*** The county with one grocery store, two restaurants, and a convenience store has only so many hours available across its entire retail sector. A worker employed at all three establishments might still fall short because the labor market itself is too thin to support full-time-equivalent employment for all who seek it.

***Seasonal employment patterns create similar structural barriers.*** Agricultural workers may log 200 hours during harvest and zero during winter. Tourism workers in beach communities or ski resorts see hours surge during seasons and evaporate during off-seasons. Construction workers face weather-dependent schedules that vary dramatically by region and time of year. These workers may exceed 80 monthly hours during peak periods and fall dramatically short during slow periods, not because they stop working but because work stops being available.

***The structural issue is that monthly compliance requirements assume month-to-month stability that many labor markets do not provide.*** A worker who averages 85 hours monthly across a year might fail compliance in five individual months while comfortably exceeding annual hourly requirements. Monthly verification treats each month as a separate judgment rather than recognizing the cumulative pattern of labor market attachment. The worker who is consistently employed, consistently seeking hours, consistently working what is available appears non-compliant in months where structural factors reduce available work.

***Part-time-dominant industries add another dimension to labor market insufficiency.*** Retail has shifted increasingly toward part-time workforces not merely because employers want to avoid benefits obligations but because part-time workers provide scheduling flexibility that full-time workers cannot. The employer can schedule part-time workers around peak periods without paying for labor during slow periods. From the employer's perspective, ten workers averaging 20 hours each provides more flexibility than five workers averaging 40 hours each.

***This shift has transformed the relationship between employment and hours across entire industries.*** A worker seeking 40 hours weekly in contemporary retail faces a fundamentally different labor market than workers faced twenty years ago. The positions available are part-time positions. The hours available are part-time hours. The worker's preference for full-time employment does not create full-time positions that do not exist.

## The Individual Responsibility Paradox

***Work requirements are fundamentally behavioral interventions.*** They assume that people respond to incentives, that consequences shape choices, that requiring work for benefits encourages work. This behavioral logic has deep roots in welfare policy reform and reflects genuine beliefs about human motivation and the proper relationship between public support and individual obligation.

***The structurally locked-out reveal the limits of behavioral frameworks when applied to structural problems.*** A behavioral intervention requires behavioral solutions to work. If someone



is not working because they lack motivation, consequences might provide motivation. If someone is not working because they prefer leisure, consequences might shift preferences. If someone is not documenting work because they are careless, consequences might encourage diligence.

None of these behavioral solutions applies to DeShawn. His motivation is irrelevant because his employer has capped his hours. His preferences are irrelevant because his preferences for more work do not create more work. His diligence is irrelevant because he documents his work perfectly and the documentation shows non-compliance. The behavioral intervention operates on a model of agency that structural constraints make fictional.

***This creates profound policy incoherence.*** The stated purpose of work requirements is encouraging work. DeShawn is already working every hour available to him. Terminating his coverage does not encourage additional work because additional work is not available. It simply terminates his coverage. The policy accomplishes nothing it claims to accomplish while harming someone it has no coherent reason to harm.

The counterargument would be that DeShawn should find different employment, that the market will provide hours if he looks hard enough, that structural barriers are individual problems requiring individual solutions. This argument has some force in tight labor markets with abundant opportunities. It has less force in labor markets characterized by employer hour caps, schedule unpredictability, and part-time-dominant industries. It has almost no force for workers whose circumstances, including transportation limitations, credential limitations, and geographic constraints, limit their labor market options to employers who cap hours.

***The question for policymakers is whether work requirements should function as behavioral interventions that accept structural collateral damage or whether they should accommodate structural reality in their design.*** If DeShawn's coverage loss is an acceptable cost of incentivizing work among people who can respond to incentives, that represents one policy choice. If DeShawn's coverage loss represents policy failure because he is doing everything reasonably within his control, that represents a different choice. Current frameworks typically do not force this choice explicitly, allowing policymakers to claim work encouragement while generating coverage loss among people work requirements cannot reach.

## Policy Responses to Structural Lockout

Several policy mechanisms could address structural lockout, each reflecting different values about who bears responsibility for labor market conditions and how verification systems should accommodate employment reality.

***Good faith effort safe harbors would protect workers who demonstrate genuine effort to reach compliance even when they fall short.*** Under this approach, DeShawn would document his hours worked, his requests for additional hours, his job search for positions offering more hours, and his unavoidable schedule constraints. If this documentation demonstrates that he is doing everything reasonably within his power to reach compliance, he maintains coverage even without reaching the 80-hour threshold. The safe harbor protects effort rather than outcome.

This approach acknowledges that structural barriers exist while maintaining the behavioral framework for people who are not genuinely attempting compliance. It requires developing evidentiary standards for good faith effort, including how many additional hour requests are sufficient, how extensive job search must be, and how schedule constraints are documented. It also requires administrative infrastructure to evaluate good faith claims and distinguish genuine

effort from paper compliance. But it prevents the policy incoherence of punishing people who are doing everything the policy wants them to do.

**Reduced hour thresholds for documented structural barriers offer another approach.** If an employer's hour cap can be documented, the threshold might reduce proportionally. DeShawn's employer caps him at 28 hours weekly, creating a maximum of approximately 121 monthly hours under ideal conditions. A state could reduce his requirement to 60 hours, representing a similar proportion of his available hours as 80 represents for someone with access to full-time employment. This scales requirements to opportunity rather than imposing uniform requirements regardless of opportunity variation.

**Annual averaging rather than monthly verification would help workers with variable hours** even if their annual totals demonstrate consistent labor market attachment. The federal requirement specifies 80 hours monthly, but states might interpret this as requiring 960 hours annually with monthly reporting. Someone who logs 100 hours in March and 60 hours in April could carry forward excess hours to cover shortfalls. This approach recognizes that monthly variation often reflects scheduling patterns rather than work attachment patterns and allows verification that captures actual labor market engagement.

**Employer accountability mechanisms could shift some responsibility for structural barriers from workers to employers.** If employers are capping hours deliberately to avoid obligations, policy could respond by making hour caps visible in coverage determinations or by imposing consequences on employers whose scheduling practices systematically prevent worker compliance. This approach is politically difficult because it imposes on employers obligations they did not agree to and have lobbied against, but it acknowledges that employer decisions are not neutral background conditions but active choices that determine worker outcomes.

## The Moral Dimension

**Behind policy mechanisms lies a moral question that cannot be resolved technically: should people lose healthcare coverage because employers have decided to limit their hours?**

**The reciprocity argument says yes.** Work requirements reflect a social contract in which society provides support and individuals provide contribution. If DeShawn cannot meet his contribution requirement, that is unfortunate but does not change the terms of the contract. Personal circumstances do not override collective obligations. Many people face structural barriers of various kinds; excusing everyone with barriers reduces work requirements to meaninglessness.

**The capacity-based argument says no.** Reciprocity makes sense when individuals have genuine choice about whether to fulfill obligations. Requiring 80 hours of work makes sense when 80 hours of work are available. Terminating coverage for someone who works every available hour punishes the individual for decisions made by others. The individual is meeting every obligation within their capacity. Holding them responsible for employer decisions they cannot control violates basic principles of moral responsibility.

**The consequentialist argument asks what outcomes the policy produces.** Does terminating DeShawn's coverage encourage anyone to work more? Does it save money sufficient to justify harm? Does it serve any purpose that could not be served by accommodating structural barriers? If coverage termination produces no beneficial consequences while producing genuine harm, the policy is simply punitive regardless of its justification.

***The systemic argument points to the broader context in which structural barriers operate.***

Hour caps exist because employers benefit from part-time workforces and face no consequences for creating structural barriers to worker compliance. If policy accepts employer-created barriers as background conditions and holds workers responsible for navigating them, policy reinforces employer power while punishing workers for employer decisions. This framing asks whose interests work requirements actually serve when they generate coverage loss among working people due to employer scheduling practices.

***None of these arguments resolves definitively to a single answer.*** They reflect competing values about responsibility, agency, reciprocity, and the purposes of public policy. But they suggest that treating structural lockout as simply another form of non-compliance misunderstands the nature of the problem and the relationship between individual action and structural constraint.

## Return to DeShawn

The termination notice gives DeShawn thirty days to demonstrate compliance or face coverage loss. He has no way to demonstrate compliance because compliance requires hours his employer will not provide. He has no exemption pathway because exemption categories do not recognize structural barriers. He has no behavioral change available because his behavior is not the problem. Under a good faith effort safe harbor, DeShawn would submit his time sheets showing every hour worked, his documented requests for additional hours, his job applications to employers offering more hours, and his explanation of why schedule unpredictability prevents second job commitment. A reviewer would determine whether this documentation demonstrates genuine effort to reach compliance despite structural barriers. If it does, DeShawn maintains coverage while remaining subject to requirements and continuing to document efforts.

Under annual averaging, DeShawn's consistent work across twelve months would demonstrate labor market attachment even if individual months fall short. His annual total of 864 hours, approximately 72 monthly average, would still fall short of 960, but month-to-month variation would not trigger termination in any single month.

Under employer accountability, the grocery store's hour-cap policy would become visible in aggregate coverage data. If 500 of 2,000 employees working there lose Medicaid coverage due to hours falling short, that pattern would suggest employer scheduling practices rather than individual worker failures. Policy responses might range from reporting requirements to employer penalties, shifting some burden from workers who cannot change employer decisions to employers who make those decisions.

What DeShawn needs most fundamentally is policy recognition that working people who cannot reach arbitrary hour thresholds due to structural barriers are not the same as people who are not working. The category problem, that he is neither exempt nor non-compliant in any meaningful sense, reflects policy design that fails to accommodate labor market reality. Until that design changes, DeShawn and millions like him will face coverage termination not for failing to work but for working in a labor market that does not offer the hours that policy assumes.

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