The Unstable Employment Reality

When "Employed" Doesn't Mean "Compliant"

The gap between being employed and meeting 80 monthly hours reflects structural features of low-wage labor markets, not individual work ethic failures

Marcus checks his phone at 5:47 AM. The grocery store scheduling app shows 15 hours for the week, down from 22 last week. His manager mentioned something about reduced traffic. At 6:30, after his shift at the grocery store ends, he drives to the fast food restaurant where he picks up another 12 hours. The delivery app on his phone pings occasionally with opportunities when he's off, sometimes adding 8 hours in a good week, sometimes only 3.

In October, these three income streams totaled 78 hours. November brought 84. December, with holiday retail surges, pushed him to 91. But January's post-holiday slump dropped him to 58 hours despite being available for every shift he could get. His grocery store cut back, the fast food restaurant reduced his schedule because a new employee needed hours, and fewer people ordered deliveries after the holidays.

Marcus is never unemployed. He is never not trying. He applies for additional shifts. He accepts every delivery ping his body can handle. He scans job boards for positions offering more hours. But the 80-hour threshold treats him as a policy problem rather than recognizing him as someone navigating a labor market that offers insufficient hours regardless of his willingness to work.

The notice informing him of pending coverage termination arrives in February. It gives him thirty days to demonstrate compliance or lose his Medicaid. Marcus stares at the letter, exhausted from working three jobs, unable to understand why working as much as three employers will let him should result in losing his healthcare.

The Variable Hours Problem

Retail scheduling has undergone a transformation over the past two decades that fundamentally reshapes what "employment" means for millions of American workers. The shift toward just-in-time scheduling, driven by workforce management software that optimizes labor costs against predicted customer traffic, creates volatility that individual workers cannot control.

The logic from the employer's perspective is straightforward. Why pay workers to stand around during slow periods when algorithms can predict traffic patterns and schedule labor accordingly? Sophisticated scheduling systems analyze historical sales data, weather forecasts, local events, and dozens of other variables to generate schedules that minimize labor costs while maintaining service levels. These systems treat workers as variable costs to be optimized rather than as people with bills to pay and hours to document.

For workers, the consequences are severe. The Economic Policy Institute found that 17 percent of the workforce experiences unstable work schedules, with rates significantly higher in retail, food service, and hospitality, precisely the industries employing large shares of the Medicaid expansion population. Schedule volatility means workers cannot predict their hours more than a few days in advance. It means the 32 hours they worked last week might become 18 hours this week based on factors entirely outside their control.

The 28-hour ceiling represents a particularly pernicious manifestation of this dynamic. Employers capping workers just below benefit-triggering thresholds is not paranoid speculation but documented practice. Large retailers have faced lawsuits and public criticism for scheduling policies designed to maintain a workforce of part-time employees who cannot access employer-sponsored benefits. For workers trying to reach 80 monthly hours, an employer policy capping them at 28 weekly hours mathematically prevents compliance regardless of how willing they are to work more.

On-call scheduling compounds these challenges further. Workers required to be available for shifts that may or may not materialize cannot commit to second jobs or other activities that might help them reach the

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80-hour threshold. The expectation of availability without the guarantee of hours traps workers in a limbo where they cannot plan their lives around actual schedules. Research published in the Washington Center for Equitable Growth found that workers with unpredictable schedules experience not only income volatility but also increased stress, difficulty arranging childcare, and inability to pursue education or training that requires predictable time commitments.

The fundamental mismatch between monthly compliance requirements and weekly scheduling volatility creates what might be called the averaging problem. A worker who logs 95 hours in March, 62 in April, 88 in May, and 71 in June averages 79 hours monthly, essentially compliant over the period. But monthly verification treats April and June as failures requiring intervention, documentation, or coverage termination regardless of the overall pattern. The worker's actual relationship to work, consistent attachment and genuine effort, disappears into the month-by-month compliance framework.

High-Turnover Industries

The Medicaid expansion population concentrates in industries characterized by extraordinary turnover rates. Bureau of Labor Statistics data shows that accommodation and food services experience annual turnover exceeding 70 percent; retail trade hovers around 60 percent. In practical terms, this means the typical worker in these industries changes jobs roughly once every 15-18 months, with many experiencing multiple job transitions annually.

These transitions matter for work requirement compliance in ways that monthly hour-counting obscures. Consider the gaps that turnover creates. Someone leaves one job on a Friday and starts another the following Monday, but the new employer's first paycheck comes two weeks later. Someone is hired but spends the first week in unpaid orientation before beginning paid hours. Someone transitions between seasonal positions with a three-week gap when one job ends before the other begins.

Each of these scenarios represents a worker demonstrating continuous labor force attachment who nonetheless fails monthly verification during transition periods. The worker hasn't stopped trying to work; they've changed jobs in an economy where job changes are normal and expected. But work requirement systems treating monthly hours as the compliance unit penalize these transitions as if they represented withdrawal from the labor force.

Probationary periods add another layer of complexity. Many employers start new hires at reduced hours, scheduling them for 15-20 hours weekly while evaluating performance before offering full schedules. A worker leaving a 35-hour job for one that promises more hours but starts them at 20 during the first month experiences what appears to be reduced work effort when they have actually made a decision aimed at increasing their hours over time.

The arithmetic of turnover and verification creates predictable patterns of coverage disruption. Someone working 80 hours monthly who changes jobs twice per year will likely fail monthly compliance during at least one transition period annually, not because they stopped working but because the gap between jobs created a month with insufficient documented hours. Verification systems designed around continuous single-employer relationships systematically disadvantage workers whose employment reality involves normal labor market mobility.

Multiple Part-Time Jobs

The economy has increasingly shifted toward part-time employment, with approximately 27 million Americans working part-time in 2024. For many of these workers, reaching 80 monthly hours requires assembling schedules across multiple employers, each offering fewer hours than the worker wants but none offering full-time positions.

Why do employers prefer part-time arrangements? The reasons are structural and well-documented. Part-time workers typically do not qualify for employer-sponsored health insurance, retirement benefits, or paid leave. They provide scheduling flexibility that allows employers to adjust labor costs in response to

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demand fluctuations. They can be scheduled around peak periods without the fixed costs of full-time positions. From the employer's perspective, a workforce of part-time employees represents both cost savings and operational flexibility.

For workers, assembling hours across multiple employers creates documentation challenges that verification systems rarely accommodate. Each employer has different payroll cycles, different documentation formats, different levels of willingness to respond to verification requests. Someone working 30 hours at Job A, 25 at Job B, and 25 at Job C has sufficient total hours but must somehow aggregate documentation from three separate sources and submit it in whatever format the state's verification system requires.

The administrative burden multiplier effect means that the difficulty of compliance scales with the number of employers rather than the number of hours. A worker with one full-time job making 80 hours monthly has one pay stub to submit, one employer to potentially contact, one straightforward documentation path. A worker reaching the same hours through three part-time jobs has three pay stubs (possibly on different schedules), three employers (with varying responsiveness), and three times the administrative burden.

Schedule conflicts further constrain workers' ability to accumulate hours across multiple employers. When Job A schedules shifts without consulting Job B's schedule, workers must choose between conflicting obligations or attempt to negotiate schedule changes, often unsuccessfully. The worker who could theoretically work 90 hours across their jobs actually works 65 because the schedules don't mesh and neither employer will accommodate the other's needs.

Multiple jobholders also face transportation and time costs that full-time workers do not. Driving between jobs takes time that doesn't count toward the 80-hour requirement. Scheduling gaps between jobs, where one shift ends at 2 PM and another begins at 6 PM, represent dead time that might allow the worker to pick up additional hours if an employer offered them but often just means waiting without compensation.

The Cash Economy and Informal Work

Beyond the documented labor market lies a substantial informal economy where millions of Americans perform real work that generates no verification paperwork. Day labor arranged at parking lots and street corners. Domestic work including house cleaning, childcare, and elder care. Yard work, handyman services, and odd jobs arranged through neighborhood networks. Gig work paid in cash without platform tracking.

This informal economy is not marginal to the Medicaid expansion population; it is central to how many low-income Americans earn their living. Research suggests that informal work provides income for roughly 20 percent of working-age adults, with significantly higher rates among populations facing barriers to formal employment. For many expansion adults, informal work is not an evasion of the legitimate labor market but their primary or supplementary means of survival.

The verification challenge for informal work is not that people aren't working but that no documentation infrastructure exists to prove they are. Someone who watches a neighbor's children for 25 hours weekly, earning cash that helps pay rent, performs real work with real economic value. But that work generates no pay stubs, no W-2s, no employer who can attest to hours worked. The worker's choice is between lying about their activity, failing to document work they actually performed, or attempting to create verification through self-attestation that states may not accept.

Community verification offers one potential pathway for informal workers to document their activity. A church that organizes volunteer childcare could potentially verify members' hours. A community organization coordinating neighborhood improvement projects could attest to participants' time. A domestic violence shelter tracking residents' job search activities could confirm engagement. But these verification pathways require infrastructure that most communities lack and that state verification systems must be designed to accept.

Fraud concerns inevitably arise when discussing verification of hard-to-document work. If states accept self-attestation or community verification, how do they prevent people from claiming hours they didn't work?

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This concern is legitimate but must be weighed against the alternative: systematically excluding workers whose employment is real but un-documentable from meeting requirements they are actually satisfying. The policy choice is whether to accept some verification uncertainty to avoid penalizing genuine work or to demand documentation certainty that excludes legitimate workers.

SNAP work requirements have grappled with similar verification challenges, and research on those programs offers relevant lessons. Studies of SNAP employment and training programs find that intensive documentation requirements reduce participation among eligible individuals without meaningfully improving program integrity. The administrative burden serves as a barrier to compliant participants while doing little to prevent fraud among those determined to deceive the system.

Annual Averaging Alternatives

The 80-hour monthly requirement embedded in OB3 represents a policy choice, not an immutable constraint. Alternative approaches could achieve similar goals of encouraging work while accommodating the employment reality that Medicaid expansion adults actually experience.

Annual averaging provides perhaps the most straightforward alternative. A 960-hour annual threshold (80 hours times 12 months) would allow workers with seasonal variation, job transitions, or irregular schedules to demonstrate compliance over a period that captures their actual work patterns rather than penalizing inevitable month-to-month fluctuations. Someone working 95 hours in busy months and 65 in slow months, averaging exactly 80 monthly hours annually, would meet an annual standard while failing several monthly checks.

Hour banking mechanisms represent another accommodation approach. Under such a system, workers who exceed the 80-hour threshold in one month could bank excess hours against future shortfalls. Someone working 100 hours in March would have 20 hours banked that could cover part of a 65-hour April, maintaining compliance despite the monthly shortfall. This approach recognizes that work effort over time matters more than arbitrary monthly accounting.

Several states have explored these alternatives in waiver applications and policy discussions. The policy debate typically hinges on whether monthly requirements serve independent goals beyond annual work expectations, whether they create "check-in" points that maintain program engagement, or whether they simply add administrative complexity and coverage volatility without serving the policy's underlying purposes. The answer likely differs depending on whether one views work requirements primarily as behavioral interventions (monthly deadlines creating urgency) or as eligibility conditions (annual standards measuring work attachment).

Federal flexibility will determine how much states can accommodate irregular employment patterns. OB3's text specifies monthly requirements, but CMS guidance and waiver approvals could create room for demonstration projects testing annual approaches. States genuinely committed to work requirements that accommodate employment reality should seek this flexibility; states more interested in coverage reduction than work promotion will likely enforce monthly requirements strictly.

The Verification Failure Frame

The Arkansas experience from 2018-2019 demonstrated something that reshapes how we should understand work requirement compliance failures. When researchers examined the 18,000 people who lost coverage, they found that 97 percent of terminations were for failure to report rather than failure to work. The vast majority of people losing coverage were either working sufficient hours or qualified for exemptions; they simply could not navigate the verification system.

This finding demands a fundamental reframe of what work requirements actually test. If most coverage losses occur among people who are compliant but cannot prove it, then the policy is not measuring work but measuring verification capacity. The question becomes not "are you working?" but "can you document that

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you're working in the specific format, through the specific channels, within the specific timeframes that the state's system requires?"

Variable hours, multiple employers, high turnover, and informal work all compound verification difficulty without affecting underlying work behavior. Marcus working three jobs totaling 72 hours in a given month faces dramatically more verification burden than someone working 80 hours at a single employer with automated payroll reporting. If Marcus loses coverage and the single-employer worker retains it, the policy has not distinguished between workers and non-workers; it has distinguished between people whose employment is easy to document and people whose employment is hard to document.

Safe harbor provisions for workers demonstrating good faith effort offer one policy response to this framing. Rather than treating documentation failure as equivalent to work failure, states could protect workers who can demonstrate labor force attachment even when monthly hour verification falls short. Someone with pay stubs showing 60 hours from two employers, a third employer who hasn't responded to verification requests, and evidence of job search activity during weeks between jobs represents a different policy case than someone with no work activity at all.

The philosophical question underlying work requirements becomes explicit when verification failures dominate coverage losses. Is this policy about encouraging work, in which case verification systems should be designed to capture actual work wherever it occurs? Or is this policy about imposing conditions that some people will fail, in which case stringent verification serves the true purpose even when it excludes compliant workers? How policymakers answer this question will determine whether verification systems accommodate employment reality or punish those whose employment doesn't fit bureaucratic assumptions.

The Labor Market We Have

Work requirement policies designed around stable, full-time, single-employer relationships attempt to govern a labor market that increasingly doesn't exist. The expansion adults subject to these requirements navigate an employment landscape characterized by variable schedules, part-time positions, multiple concurrent jobs, high turnover, and substantial informal work. Verification systems assuming the labor market of fifty years ago will systematically fail workers whose employment is contemporary and real.

This is not an argument against work expectations but an argument for work requirement designs that match employment reality. If the goal is genuinely to encourage work and measure labor force attachment, then policy should accommodate the work that people actually do rather than penalizing them for not having employment patterns that employers no longer offer.

Marcus is working. He is working as much as three employers will let him work. He is working in the economy that exists rather than the economy that work requirement designers imagined. Whether he keeps his healthcare depends on whether the verification system recognizes his effort or whether it treats his structural hours shortfall as a personal failure deserving coverage termination.

The policy choice is clear even if politically contested. Systems can be designed to verify work as it actually occurs, accepting the complexity and uncertainty that accommodation requires. Or systems can be designed around idealized employment patterns, knowing that the workers who don't fit those patterns will lose coverage regardless of their actual work effort. The former approach serves the stated goal of work requirements. The latter serves a different goal entirely.

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