

Workers are Hurting and the Department is Working, But More is Needed to Prevent Economic Harm to Jobless Workers During the Covid19 Pandemic

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My name is Julia Simon-Mishel and I am the Supervising Attorney of the Unemployment Compensation Unit at Philadelphia Legal Assistance. Our unit represents over 600 low-wage workers a year as they seek unemployment benefits. However, as of March 16, we have become the leading source of information to the communities across the Commonwealth about Pennsylvania unemployment compensation and the federal extension programs under the federal CARES Act. I also currently serve on Pennsylvania's Benefit Modernization Advisory Committee. Thank you for inviting me to provide testimony on the experience of workers filing for benefits during this pandemic.

Our unemployment system can be difficult for workers to navigate in the best of times. Pennsylvania, like many states across the country, operates a legacy mainframe system to handle unemployment compensation benefits, taxes, and appeals. Initial applications can be long and cumbersome, especially when accessed on a smartphone, almost all communication is still by mail, and the documentation and information provided to claimants often involves legal jargon that can be difficult to understand.

The Covid19 crisis hit at a time of record low unemployment for Pennsylvania, much like the rest of the country. That meant that the administrative funding provided by the federal government, the main source of funding for the UC Office in the Department of Labor and Industry, was substantially lower than it had been during the Great Recession. In fact, administrative funding for state unemployment agencies has decreased so significantly over the last decade that at least 36 states, including Pennsylvania, must rely on supplemental state funding just to run the program in normal times.¹

And as you know, Honorable Committee Members, these are not normal times.

¹ See National Association of State Workforce Agencies, *State Supplemental Funding Survey* (https://www.naswa.org/system/files/document/fy_2016_supplemental_report.pdf); see also Office of Unemployment Insurance, Department of Labor, *Financing Table 2-16* (<https://oui.doleta.gov/unemploy/pdf/uilawcompar/2018/financing.pdf>).

The Department of Labor and Industry Has Taken an “All Hands On Deck” Approach

With nearly nearly 25% of Pennsylvania’s workers filing for unemployment compensation benefits within a 6 week period, the Department faced an unprecedented challenge: how to ramp up operations in the midst of a pandemic to pay benefits to over a million workers, many of whom teetered on the edge of poverty. This task was especially difficult given that the Department had a responsibility to protect its own workers, who could no longer all work out of the normal Service Centers due to social distancing restrictions and were suddenly forced to develop new procedures for remote work.

The Department and its staff have done an admirable job responding to this crisis. The Service Center staff, who care deeply about the claimants they serve, have worked countless hours through a pandemic that has also threatened them and their families. They have been flexible and willing to realign their assignments and jobs to ensure that the Department prioritized paying out claims. These men and women should be applauded for holding down the front line. Their leadership has also risen to the challenge, and have worked almost 24 hours a day, 7 days a week solving problems since Covid19 developed into a national crisis.

Their efforts have been far from perfect -- but in that, the Department is in good company with pretty much every other state unemployment agency in the country. No state was prepared to handle this influx of cases. To put it in context here at home: in the first several weeks of this crisis, the Department received over 1.6 million initial claims for UC benefits; in 2016, it received 981,000 *for the entire year*. As someone closely connected to other unemployment advocates across the country, I can confidently say that Pennsylvania has managed to avoid some of the disasters of its sister states. Unlike many states, our online application has held up reasonably well with comparatively minimal crashes; furthermore, it is available to claimants 24 hours a day 7 days a week, whereas several states only allow applications during normal work hours. The Department is also ahead of the curve on electronic communication, providing both an online chat service and an email help address. In several states, including New York, the state agency is requiring claimants to *fax* documents and information to the agency during this time. Florida has even resorted to paper applications.

The Department has also taken action to improve user access since the Covid19 crisis began, such as finally making its online application mobile responsive. It recently made a back-end change that will allow hundreds of thousands of workers to easily re-open their inactive claims and begin filing for benefits. We expect that they will continue to find, and act on, ways to improve the system.

None of this is easy. As my colleague Michele Evermore at the National Employment Law Project has said, when it comes to UI agencies during the pandemic, “basically, they’re walking, chewing gum, and writing a doctoral dissertation all at once.” But there is more we should, and must, be doing to support Pennsylvania’s workers during this traumatic time.

Pennsylvania Workers are Hurting, and Some Have Not Even Applied Yet

Prior to losing their jobs, many Philadelphians already lived on the brink of poverty. Low wage work barely paid the bills, and many of my clients juggled multiple jobs just to stay above water. Living paycheck to paycheck, they have been immediately thrown into disarray by the sudden loss of their jobs, and with the delay in receiving benefits have struggled to pay rent and put food on the table. I am sure the Senators here today have all heard countless stories from their own constituents, from the single mother who lost her brand new job and waited weeks for her claim to be re-opened, to the recent widower who continued to hopelessly file having never received the Notice of Financial Determination telling him he was ineligible for benefits, to the young man about to lose his housing if he does not soon receive the 13 week extension.

But even with the issues facing those who have already applied, there are countless others who have not even been able to file an initial application for benefits. Many of my clients, despite already living in an urban area with decent access to broadband technology, struggle to use computers or smartphones. They are not outliers - with an aging population, many across the Commonwealth share their struggle. Others across lack consistent broadband access. Many workers fear they will soon have their cell phones deactivated because they cannot pay their bills. Without online access, most workers cannot reach the Department, or apply for benefits, given the current volume of calls to the Service Center. If you do not have the ability to file an application online, you are out of luck. Similarly, prior to Covid19 the only way for workers with language access issues to file a claim with an interpreter was to call the Service Center. Now, those workers also have no access point.

Familiar with the prior difficulties of the Service Center phone system during high volume times, PLA immediately sprung to action and created a pro bono UC application service hotline to help individuals file for benefits who could not do the application online on their own. We have assisted hundreds of workers with applications and questions, but the Department must figure out a separate telephone access point for these workers to file applications for both regular UC, and PUA, by telephone.

Pandemic Unemployment Assistance Must Be Fixed and Fully Operational

Despite the Department’s laudable effort to quickly deploy its new Pandemic Unemployment Assistance (PUA) system, the implementation has been near disastrous. The system was rolled out with little publicity, despite the incredible need of hundreds of thousands of workers across

the state who had been left out of unemployment compensation coverage and were desperately waiting for the new program. Even several weeks after the PUA application went live, many thousands of people - your constituents and your neighbors - have no idea that there may be support for them. Barbers and beauticians, painters, house cleaners, shop owners, and many more Pennsylvanians who work for themselves have yet to learn of this program that might be the difference between financial survival and bankruptcy.

But those who did know about PUA and applied are not yet any better off than who have no idea. Launching a brand new unemployment benefit program is no easy task, and no other state in the country has even begun paying out claims under PUA. This program covers, for the first time, a set of workers with drastically different work situations, work histories, and separation scenarios. The snags in the system only provide further confirmation that we must have extensive user testing of any new systems before they are deployed.

The morning after the launch of the application, people who had been waiting to apply immediately began attempting to file in surprisingly large numbers. At that time, the application was slow to load, and PUA claimants found it confusing and glitchy. Although the slowness of the application has been ameliorated, the public's confusion about the application has not. And as they continue to wait without any information or updates about their claims, frustration and fear is at an all time high.

PLA and Community Legal Services (CLS) have spoken with dozens of individuals who have applied or attempted to apply. To assist in gathering information, PLA released an online form seeking feedback from PUA applicants on April 20. Within three days, over 150 PUA claimants had responded.

The results of the survey, reviewed by CLS, indicate that many applicants found the PUA application incompatible to the reporting of non-traditional employment, such as independent contractors/freelancers and self-employed individuals. Gig workers were a distant third category but also struggled to match their experience to the system. These types of jobs comprise the majority of the working population that the program was created to support. These workers encountered numerous issues and errors, which we identify below and propose fixes to address these problems:

- **Problem: the system will not let individuals complete an application.** Of the 150 survey responses, 77 people – more than half -- reported a reason they were unable to finish the application. The largest number of these reported “the system would not let me.” Others specified that they got into an endless loop or received error messages.

Many people made multiple attempts to apply, for example 62 people stated that they had to try 3 to 4 (or “several”) times, 7 had to try 5 to 10 times, and 6 tried 11+ times.

The application kicked several groups of people out of the system:

- individuals who had both W2 and non-W2 income, even after the Department’s initial claimed fix of this matter,
- individuals who performed work in another state,
- individuals who worked part-time for local government, and
- individuals who worked for academic institutions, like adjuncts.

Needed Fixes: The system must allow workers to complete the application, regardless of perceived eligibility. The Department cannot “kick people out” of the application based on answers to certain questions; these barriers prevent eligible individuals from applying and violate due process by denying governmental benefits without notice or opportunity to be heard.

- **Problem: employment history is not applicable to many of these workers.** Many of the specific complaints centered on the “Employment History” section of the application, which asks applicants to put in the name of their employer and company, or auto-populates with information. In many cases, a company or employer was not included, or the person completing the application is self-employed. In these instances, many were unsure about how to proceed. Others had old employers from years past automatically populate and could not remove them, and had no way to answer the required separation questions. And for some workers who maintained a part-time W2 job but had lost the majority of their income from non W2 work, there was no way to get past this section because they were “still employed.”

Needed Fixes: First, this section needs clear instructions. Second, these questions should not be mandatory, especially for self-employed individuals and freelancers who do not have a demarcated “employer.” The system needs to be fixed so it does not pick up employment history previous to 2019 that has no impact on the individual’s current work circumstances. There must be a way for individuals who maintain minimal W2 employment to explain their work circumstances, like the photographer who works one day a week as a real estate agent, or a gig worker who did one 12 hour W2 cleaning job for a total of \$84.

- **Problem: Forty-five percent of individuals were not able to upload the requested documentation.** Some people could not figure out how to upload, or did not have the

correct documents. Others reported that their documents seemed to “disappear” after upload, and some completed the application still unsure if the documents were successfully attached. This section lacked any real instruction to help individuals figure out what had to be uploaded and for what reason, and failed to explain that applicants did not *need* to submit documents and would have an opportunity to upload documents at any time over the next 21 days.

Needed Fixes: Clear instructions and a help desk (not just a greyed out button) to help individuals figure out how to find the documents on their devices and upload them. It is also vital that there be a clear disclaimer that individuals can submit the application without documentation. The PUA online portal must have an easy upload section with instructions to help people return to the system and provide documentation at a later time.

The numerous application problems, website and system glitches, and a complete lack of information about when claims will be adjudicated and paid have felt like a slap in the face to workers who had been without access to any income for over 6 weeks. The system must be fixed and claims must be quickly adjudicated and paid.

The Department Must Improve its Communication with Workers

While we understand the Department has a lot on its plate between processing and paying over a million UC claims and launching a new PUA system, it has failed to provide the one commodity anxious workers need almost as much as money: information. Countless workers, agencies, legislators, and community organizations have told us at PLA that we are their only source of information for what is happening with both regular UC claims and PUA claims. While we are tirelessly providing updates, and are happy to continue doing so, **the Department must do its part as well.**

Regular UC claimants have been hung out to dry. Some claimants have been filing for nearly 8 weeks and have received no information, others waited for PIN numbers that never arrived, claimants repeatedly “re-opened” claims with no success, and claimants recently begun receiving Notices of Financial Determination finding them ineligible that had been postmarked *after* the appeal deadline. The \$600 Pandemic Unemployment Compensation payments were processed, but no explanation was given about how and when they would be received, and many claimants still have not received them despite receiving their regular UC benefits. Issues and errors during a pandemic like this are unavoidable, but failing to communicate what is happening to the public is not. This is especially true when it is nearly impossible for a claimant to ever reach the Department by telephone.

The Department must:

- Provide more information in the online UC portal about claim status
- Send blast emails to claimants whose email addresses it has collected with updates about PUC and PEUC, the 13 week extension program.
- Advertise upgrades to the system, like automatic re-opens and mobile responsiveness whether by email, mailing, or social media.
- Inform claimants who received ineligible Notices that they will **not be penalized** for late appeals due to the mailing error, and that they should still appeal and request a wage investigation if their determination is missing wages or credit weeks.
- Inform claimants about the change in quarter that occurred on April 5 which may make them now financially eligible for benefits.

Finally, the Department must, as required under the CARES Act, provide timely information to those who would be eligible for PUA after they are denied regular UC benefits. This is especially true for the thousands of workers trying to traverse the maze that is UC financial eligibility on their own with no access to Service Center representatives.

PUA claimants are lost and confused. Even less information has been provided to PUA claimants. These workers are desperate for information about this brand new program and are terrified they will be found ineligible, despite the fact that almost everyone who lost income due to Covid19 and who is ineligible for UC should be eligible for PUA. The lack of application instructions and guidance was noted above, but the Department must issue a guide that instructs claimants how to navigate the new application and web portal. The Department's website should provide more consistent updates about changes to the application, as they are, thankfully, making those changes by the day to improve the system. Several issues have caused mass confusion for claimants that must be immediately explained to the public by the Department:

- PUA claimants do not receive a confirmation email, leading them to believe their application did not go through.
- PUA claimants are automatically seeing a weekly benefit rate assigned to them of \$195, but this is just a placeholder as the Department determines financial eligibility.
- PUA claimants are all seeing three "issues" populate their online portal and mistakenly think they have done something wrong.
- PUA claimants are anxious about receiving PIN numbers in the mail, despite the fact that they **do not need** PIN numbers to file a PUA weekly claim, just the username and password set-up during the application.

- PUA claimants are terrified they will be rejected because they do not have documentation, despite the federal Department of Labor's guidance that all claimants are eligible for a base rate of \$195 a week even without documentation.

And finally, there is nothing more that these workers want than some clarification on when they will be paid.