

August 15, 2021

The Honorable Steven Johnson  
House of Representatives  
Anderson House Office Building  
N-1091 House  
Lansing, MI 48933

Sent via email to: [StevenJonson@house.mi.gov](mailto:StevenJonson@house.mi.gov)

Dear Mr. Chairman,

I am an attorney with Legal Services of South Central Michigan and have worked with hundreds of claimants since early in the pandemic. Thank you for the invitation to provide written testimony. Our clients are Michigan's working poor. They have minimal assets and little household income. To their detriment, they relied on an unemployment insurance system that is unpredictable, chaotic, and seemingly indifferent to their economic suffering.

Our clients are home health aides, housekeepers, carpenters, school cafeteria workers, recent college graduates, restaurant workers, gig workers. Some have disabilities, some are seniors trying to supplement social security benefits. Most are parents. All require dependable and predictable income.

As things stand today, Michiganders cannot rely on UI for financial support. The Michigan Employment Security Act is in desperate need of an overhaul. I encourage you to read the Act for yourselves. You will find it unintelligible. It falls short of its goals.

Not only are the eligibility requirements ill-defined and outdated, enormous areas of our economy are excluded. Michigan's economy has changed since the 1930's when the Act was created. Many Michiganders work for themselves or they have part-time jobs to supplement social security, or to support families. The Act, as written, excludes all of these workers.

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Because Michigan's UI laws excluded so many who lost work in the pandemic, Michiganders turned to federal programs like PUA for assistance. Those programs pumped billions of dollars into Michigan, but disbursement was hampered by rules imposed under Michigan law.

Our UI system creates fear and uncertainty. Under our law, the Unemployment Insurance Agency is required to determine eligibility at different times based on different criteria over the life of the claim and beyond. Rather than issue a determination on all eligibility criteria at once, eligibility is evaluated and reevaluated multiple times, sometimes for years. After one issue is resolved, another might crop up. Claimants are routinely told they are eligible and then ineligible -- and back and forth and back and forth. The rug can be pulled out at any moment. Mistakes at any stage of the process result in catastrophic delays.

Michigan law even permits the Agency up to 3 years after benefits have been paid, to look back and accuse claimants of fraud -- this is true even when the accusations are unfounded. For example, the letter sent to PUA claimants demanding requalification was sent more than a year after most claimants were determined to be qualified and it accused them of "misrepresentation" -- just another way of saying fraud.

Imagine if tax returns followed the same rules. Imagine if you were required to file a return every 2 weeks. Then the IRS determined your refund based on your W-2. Then later they issued a new refund based on your deductions and then months or years later they evaluated your other sources of income and decided that your refund was greater than it should have been. Imagine that even if you answered every question to the best of your ability, the IRS still accused you of misrepresentation. This is what happens with unemployment. There is no certainty in the system.

In addition to the law itself being problematic, the Agency has made things worse. They have a long history of improperly accusing claimants of fraud. I have come to learn that the Agency is still using the computer system, MIDAS, that is the cause of much of the grief.

Before MIDAS, I have been told, Michigan UI determinations were all inclusive -- meaning they combined issues and included facts specific to a particular claimant. Before MIDAS, claimants could understand why they were, or were not, entitled to benefits. When

MIDAS was purchased, nearly a decade ago, that coherent system was replaced with the one we have now.

MIDAS was programmed in such a way that many Michiganders were wrongly accused of fraud. This issue drew national attention, and the ramifications are still felt.

Merely being accused of fraud can bring about catastrophe under our law. If a claimant fails to respond to the accusation within 30 days, the decision becomes final, and collection is required. Because the Agency has 3 years to look back and accuse claimants of fraud, many claimants are back to work and have moved on with their lives by the time they are notified of the accusation. Because the Agency sends so much irrelevant and incomprehensible information, a fraud notice sent 3 years after a claim, is likely to go unread. Claimants are shocked to find their wages garnished years later.

Honest claimants are afraid. They are accused of "misrepresentation" even when the Agency itself is responsible for the error -- as those recent PUA waiver letters demonstrate. Even though the Agency, in many cases, waived repayment of the benefits, they still accused claimants of "misrepresentation" and overpayment and told claimants affirmatively that they owed principal and interest. Hidden among pages of correspondence were 2 sentences which stated that claimants would not be required to pay the money back.

Contradictory and confusing correspondence is the norm. Letters contain irrelevant and misleading information. Claimants are required to sift through reams of documents that make no sense. It is not uncommon for a claimant to receive 5 separate letters over the course of the year advising them that they are eligible for PUA only to receive a 6th letter which finds them ineligible. It is not uncommon to find 40, 50 or even more pieces of correspondence from the Agency in any given case.

Another systemic flaw which leads to disastrous results, is the system's failure to allow claimants a way to correct their own errors. Because the Agency's questionnaires are often incomprehensible, mistakes are made. If a claimant interprets a question in a way the Agency did not intend, benefits can be immediately cut off. The only way to correct an error is to file a protest. Protests go unaddressed for 7, 8 months -- even longer in too many cases. The claimant goes unpaid while they wait. Michigan law places no limit on how long the Agency can take to reach a decision.

One of my clients is a single mother with cancer who had a small business prior to the pandemic. She lost all her clients, and therefore all her income. Being self-employed, she was not eligible for state benefits. Her PUA claim was delayed for months for reasons that were not clear. Eventually she was paid. Then benefits stopped for a few more months and restarted. A few weeks ago, more than a year after she was found eligible for PUA, she received a letter accusing her of misrepresentation. The Agency issued a redetermination based on "new or additional information". The Agency did not share the information upon which it is relying, but it is demanding repayment of \$27,000. Shamefully, this is not uncommon.

Another client, also a single parent forced to stay home when schools shut down, had her benefits cut off and was charged with an overpayment of \$33,000 because she indicated that she was unavailable for work. Under the law, she is eligible for benefits, but somehow the Agency reached a different conclusion. Her protest has been pending since March. She has not been paid while the protest is pending.

Another client owns a small cleaning business. She has multiple employees whom she tried to pay, but her own income was significantly reduced due to the pandemic. She was denied benefits because she reported to the Agency that she wasn't available for full time work. What she meant by that, was that she wasn't available to work for someone else because she was busy trying to keep her business alive. The Agency denied her claim because she said she was unavailable. In July 2020, she heard that benefits were coming to an end. She expected the pandemic to end as well, so she stopped certifying for benefits and her account was closed. As the pandemic stretched on, she tried contacting the Agency for help. She got nowhere. Eventually in March, she filed protests of the summer of 2020 determinations which denied her claim. We are still waiting for those protests to be addressed.

Another client filed for benefits in November, 2020. The Agency determined she was not eligible and required that she complete a \$4,000 rework requirement to regain eligibility. Her protest languished for nearly 8 months. In the meantime, she found new work at a factory, but the factory subsequently shut down due to a parts shortage. By the time of the shutdown, she had completed the rework requirement. Her employer submitted a claim on her behalf, but the Agency maintains she is disqualified because the protest she filed in January has not yet been resolved. In her case, of course, whether she prevails in her protest or not is irrelevant. She satisfied the rework requirement and should be paid

immediately. There is no process in place at the Agency to move her claim through. She must wait for their review, and no one can tell her how long that will take.

It is hard to understand how the Agency operates. I have tried. Their procedures and practices are not freely available to the public. While the materials are subject to FOIA, the cost is prohibitive. At one point, I was told that their manuals date back 20 years and that it would cost in excess of \$8,000 for the review alone.

The lack of access to any information or staff that can help address questions, and the absence of a process to correct mistakes, creates a sense of desperation and frustration in families that are already experiencing the loss of employment and scarce financial resources.

Unemployed Michiganders deserve a system they can rely upon. They deserve a system with clear and open procedures. One that provides access and accountability. The system in place does not meet these fundamental goals.

Thank you again for your invitation to comment on these issues.

Sincerely,



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