



**TESTIMONY OF THE NATIONAL EMPLOYMENT LAW PROJECT
HEARING BEFORE THE PENNSYLVANIA DEMOCRATIC POLICY COMMITTEE
REGARDING OPERATIONAL PROBLEMS IN THE UNEMPLOYMENT
COMPENSATION SERVICE CENTER SYSTEM**

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My name is George Wentworth and I am a senior staff attorney with the National Employment Law Project. NELP is a national non-profit organization based in New York City that conducts research and advocates on behalf of federal and state policies that help unemployed and low-wage workers. Prior to joining NELP in 2009, I worked at the Connecticut Department of Labor for 35 years, the last 20 as counsel to the Labor Commissioner.

NELP has been asked to provide testimony today regarding operational problems in the Unemployment Compensation Service Center system run by the Pennsylvania Department of Labor. As an organization that is involved in unemployment insurance (UI) issues at the federal level and in state legislatures throughout the country, we have been asked to provide a national perspective on the following issues: (1) the impact of decreased federal funding on the operation of state UI programs and unemployed workers, (2) possible funding solutions, and (3) improving UI service delivery through improved technology.

BACKGROUND

The importance of the Unemployment Insurance program to Pennsylvania's workforce, to its employers and to its economy over the past five years cannot be overstated. As the state has struggled through the Great Recession and the ensuing slow recovery, the UI program has provided a vital lifeline to more than a million Pennsylvania workers and their families. The average UI payment in Pennsylvania is about \$341 per week, which is about 38 percent of the average worker's wage. Yet, those modest payments yield tremendous benefits for the Pennsylvania economy. They allow jobless workers to keep up their rent and mortgage payments, to put food on family dinner tables, to pay for school supplies and otherwise help people cover their financial obligations until they can land that next job and get back on the economic ladder.

As the following table shows, since the Recession first began to take hold at the beginning of 2008, more than \$30 billion in state and federal unemployment insurance has been pumped into the Pennsylvania economy. Approximately 1.06 million jobless workers have received \$16.86

billion in benefits under the state UI program, while another \$13 billion in federally funded benefits have been paid out under the Emergency Unemployment Compensation (EUC) and Extended Benefits (EB) programs. The table visually depicts how state and federal benefits ramped up to the \$8 billion range in 2009 and 2010 when the state’s unemployment rate remained above 8 percent for a prolonged period. Nearly 300,000 Pennsylvanians received UI benefits in 2009 and the number decreased to approximately 190,000 in 2011 as the unemployment rate saw gradual improvement. Yet, even as one federal extension program (Extended Benefits) has disappeared and the other (EUC) has been scaled down, the number of Pennsylvanians who have needed to access UI benefits in 2012 will likely wind up being virtually the same as last year.

UI is critical to Pennsylvania’s economy. Even as the economy slowly improves, it still takes the average unemployed American 39 weeks to find a new job. In Pennsylvania, approximately half of all UI claimants exhaust their state UI benefits without having found new employment. Hundreds of thousands of Pennsylvanians will continue to rely on the UI program for short-term income replacement while they struggle to get back in the game. That is why it is essential that the infrastructure of the program operated by the Pennsylvania Department of Labor be equipped to deliver services and process claims efficiently and promptly.

Year	Percent Unemployed	State UI		EUC	EB	State and Federal
		Claimants Paid	Benefits Paid (<i>in billions</i>)	Benefits Paid (<i>in billions</i>)	Benefits Paid (<i>in billions</i>)	Benefits Paid (<i>in billions</i>)
2008	5.4%	173,800	\$2.85	\$0.53	\$0.00	\$3.38
2009	8.0%	295,300	\$5.03	\$2.52	\$0.42	\$7.97
2010	8.5%	225,473	\$3.66	\$4.18	\$0.45	\$8.29
2011	7.9%	190,600	\$3.08	\$2.77	\$0.58	\$6.44
2012	7.9%	179,000	\$2.25	\$1.52	\$0.18	\$3.96
Total	--	1,064,173	\$16.86	\$11.53	\$1.64	\$30.03

Notes: State unemployment figures are monthly averages; figures for 2012 are through August. Unemployment insurance reciprocity figures equal the average number of benefit checks paid in a week.

Sources: U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics, <http://www.bls.gov/lau/>, and U.S. Department of Labor, Employment and Training Administration, Monthly Program and Financial Data, <http://www.ows.doleta.gov/unemploy/claimssum.asp>, and EUC and EB Summary Data for States, <http://workforcesecurity.doleta.gov/unemploy/euc.asp>.

I. DECLINING FEDERAL FUNDING FOR UNEMPLOYMENT INSURANCE ADMINISTRATION

State unemployment insurance (UI) program administration is funded primarily by employer taxes paid under the Federal Unemployment Tax Act (FUTA). Employers annually pay .6 percent of the first \$7000 in taxable wages for each employee, or \$42 per worker. The FUTA tax revenues fund both state and federal administration of the UI program. Title III Section 302 (a) of the Social Security Act requires the Secretary of Labor to annually certify to the Secretary of Treasury such amounts as are necessary for the “proper and efficient administration of each state’s UI law.

The amount of administrative funding provided is generally workload-driven. The U.S. Department of Labor (USDOL) projects a state's UI workload in the next fiscal year using economic assumptions about the state's unemployment rate, the number of workers likely to apply for benefits and the numbers of weeks of benefits UI claimants will draw. Once USDOL has projected a number of continued weekly claims, it then recommends a base budget allocation sufficient to pay that number of weekly claims, along with an estimated number of other related workload items such as initial claims, non-monetary determinations and appeals. States earn above-base funding as the state's insured unemployment rate rises above the base rate, and additional contingency funding is automatically triggered when the average weekly insured unemployment is higher than projected. Congress uses its own economic assumptions and methodology when considering USDOL budget requests and frequently reduces the amount requested.

Base funding covers the cost of administering the UI program even when unemployment is low. Unfortunately, real, relative base funding has been declining since the mid-1990's. Adjusted for inflation, base funding per 2 million average weekly insured unemployment was actually lower in 2007 than 1986. The current system of allocating base UI administrative funding does not reflect the impact of inflation or changes in productivity.¹ The National Association of State Workforce Agencies has proposed an alternative funding formula in which states would receive the higher of the current formula distribution or 50 percent of the state's FUTA revenues for the prior year.

Like most other states, Pennsylvania is facing a major decline in UI administrative funding. In general terms, this decrease can be understood as a product of the state's declining unemployment rate and a drop in the number of workers filing for benefits. As the table above shows, the number of workers receiving benefits has declined from about 295,000 in 2009 to 225,000 in 2010 to 190,000 in 2011. The decline in administrative funding also reflects a decrease in the state's UI recipiency rate, the percentage of unemployed workers receiving state UI benefits. For the 12 months ending June 30, 2012, Pennsylvania's UI recipiency rate was 44 percent; this compares to 48 percent for the same period ending June 30, 2011, 53 percent for the period ending June 30, 2010 and 63 percent for the period ending June 30, 2009. While the national UI recipiency rate has also declined substantially during this period, this dramatic 19-point drop in the percentage of unemployed Pennsylvanians receiving state unemployment insurance over the past 3 years clearly has a direct correlation to the decrease in federal funding available to administer the state's UI program.

Like most states, Pennsylvania has come to rely on call centers and telephone applications to process unemployment insurance claims. The range of transactions and inquiries handled by call center staff is quite wide-ranging with the most time-intensive being the initial claim for benefits. While most weekly claims/certifications are handled through telephone voice response or internet technology, problems associated with these claims result in phone calls to call center staff. The capacity of call centers to handle increased volume of claim and inquiry activity has

¹ "NASWA UI Administrative Financing Proposal", Presentation of Richard Hobbie, Executive Director of the National Association of State Workforce Agencies before the Unemployment Compensation and Workforce Strategies Conference, June 21, 2012, Denver, CO.

been taxed in many states since unemployment first started to rise dramatically in 2008 and Congress began enacting federal UI extension programs. Reports of system breakdowns around the country were frequent in 2009 and 2010 as systems designed to handle 26 weeks of state UI benefits and perhaps a 13-week Extended Benefits (EB) program were frequently overwhelmed by the demand resulting from a combination of state and federal benefits that reached 99 weeks in some states.

As the Pennsylvania Department of Labor and Industry attempts to manage a continuing high workload in its call center, it has apparently made a strategic decision to prioritize disposition of claims requiring investigation, adjudication and follow-up over prompt response to incoming calls. As a consequence, unemployed workers attempting to file applications for unemployment insurance are waiting on hold for hours without service to file their claim or have their problem addressed. This is in marked contrast to the management approach of the prior administration that prioritized making intake easier by more rapid response to claimants contacting the call center - largely through more call center staffing, extended center hours and a system of allowing claimants to elect a callback instead of enduring long hours of busy signals or waiting on hold .

The decrease in UI administrative funding admittedly makes it more difficult to fully staff call Pennsylvania's UC Service Centers. But the answer should not be locking out the unemployed. Thirty years ago, unemployed workers stood in long lines at unemployment offices to apply for UI benefits. It was not an experience that jobless workers enjoyed and it was - for many - degrading. But at least you could see that you would eventually get to the front of the line. The efficiencies that came with the advent of telephone claim-filing promised better and more uniform customer service, less administrative cost and a claimant experience that would be largely a private transaction without the indignities of the unemployment line. Even with less administrative funding, thousands of workers should not spend their days listening to busy signals just to apply for unemployment insurance they have earned through their work histories.

II. POSSIBLE FUNDING SOLUTIONS

As a starting principle, NELP believes that the doorway to any effective UI program should not appear to be closed to workers trying to apply for benefits. We respect that it is up to states to design UI systems that work and that state UI administrators are best positioned to manage the competing priorities of a relatively complex system of claims, benefits, decision-making and taxes. But to fix the problems facing Pennsylvania's system today, the range of possible solutions generally falls into four categories - (a) additional funding, (b) additional staffing, (c) operational efficiencies, and (d) technology - ideally, some combination of all four.

Without second-guessing decisions about staffing and how existing administrative dollars are being spent in terms of operations and technology, we speak to the issue of possible funding solutions and point to two possibilities:

- (1) **Reed Act.** For the past ten years, Pennsylvania has relied on a special federal distribution of \$337 million to cover costs of UI administration. In March 2002, Congress passed the Job Creation and Worker Assistance Act of 2002, which included a distribution to states of \$8 billion of the unemployment tax revenue it then held in reserve, referred to as a Reed Act distribution. Under the act, these funds could be used to pay UI benefits, and/or to enhance UI benefits, or otherwise expand eligibility to groups that did not qualify for benefits. The funds could also be used for the administration of UI and employment services (ES) programs, including one-stop service centers, if appropriated by state law.

Since 2002, Pennsylvania has used most its Reed Act distribution to supplement year-end shortfalls in federal funding and to subsidize major automation projects. The Reed Act dollars are appropriated annually by the Pennsylvania legislature and in June of this year, the legislature appropriated the remaining \$41 million.

- (2) **Establish a supplemental state funding stream.** Earlier this year, Pennsylvania enacted major legislation (Act 60) authorizing the PA Economic Development Financing Authority to issue up to \$4.5 billion in bonds to pay off federal loans to the insolvent unemployment trust fund. In addition to millions of dollars in worker benefit cuts, that legislation directed that 5% of employee taxes go toward a “reemployment fund” that would provide an estimated \$10 million annually for a range of workforce development services for unemployed workers. One way to fund improvements in services to UI claimants would be to increase the percentage of employee taxes going to the reemployment fund and to expand its use to include improved UI services and administration.

III. TECHNOLOGY

Like most states, Pennsylvania has invested heavily in technology to improve UI services. This is clearly an essential strategy and has been driven in many ways by federal policies that favor one-time investments in automation over recurring staff costs. Yet, states have not generally been successful in implementing major systems overhauls and most states are still relying on automation infrastructures that were built well before their call centers were founded. Pennsylvania has tapped into its Reed Act distribution heavily to modernize its UI tax system but is still struggling to implement a corresponding modernization of its UI benefits system.

While technology will certainly be a major piece of any plan to improve services to UI claimants, NELP wants to underscore the dangers of over-reliance on technology to replace personal customer assistance. The most glaring example of technology being used to actually create new barriers to UI access is what the state of Florida has done in the past year. It began by requiring that all claimants apply for benefits on-line; overnight, claimants could not apply by telephone as in most every other state in the country. Without the assistance of a customer service representative, this change immediately had an immediate negative impact on thousands of unemployed workers without computers or internet service, non-English-speaking claimants, workers with limited literacy and workers who lacked the ability to navigate the state’s complex UI application.

In addition, Florida layered on additional eligibility conditions that could only be documented through on-line transactions – a “skills assessment” examination comprised of 45 math, reading and research questions, and a requirement that 5 new employer contacts be documented extensively on a cumbersome on-line application each week before payment could be made. These changes have resulted in more than 100,000 UI claimants being unfairly disqualified in the past year and Florida’s reciprocity falling to a worst-in-the-nation 16 percent. NELP has joined with Florida Legal Services to legally challenge these obstacles to benefits, and USDOL is currently investigating whether the Florida UI program violates the requirements of the Social Security Act that state methods of administration should be reasonably calculated to insure payment of UI benefits when due.

Ultimately, technology affords more opportunities for more efficient service, but it needs to be managed carefully. The internet is a great option for those that have the capacity to navigate it and if the automation itself is well-designed. But it should never be the only option for claimants, particularly those who have language, literacy and computer-fluency barriers, as well as those with disabilities. The door to UI benefits should be open and easy to enter, and there should always be the option of prompt personal customer service for those who encounter problems. We should expect nothing less from a program that sustains Pennsylvania families facing the worst of times.