

Statement of

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On the Subject of

Current Developments in Unemployment Insurance

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Introduction

My name is Richard W. McHugh. I am a staff attorney and Midwest Coordinator with the National Employment Law Project, Inc. (NELP). NELP is a national support and policy advocacy organization that provides technical assistance to policymakers and advocates dealing with workplace challenges facing low-wage, working families. Among our major activities, NELP is concerned with making unemployment insurance more relevant to today's workers and the changing economy. I am pleased to testify on behalf of NELP before this subcommittee of the Illinois legislature to provide an overview of current developments in unemployment insurance (UI).

Since 1975, I have been involved with unemployment insurance, dislocated worker programs, and other public policies that promote economic security and stability. I was elected to membership in the National Academy of Social Insurance in 1990 and I have had the opportunity to testify and speak regarding UI before Congressional committees, state legislative committees, and the federal Advisory Council on Unemployment Compensation. I wish to thank the subcommittee for the opportunity to appear today.

Overview

At both the national level and in many states, policymakers and advocates are focusing on UI and considering a variety of improvements and modifications to meet the needs of working families and their communities. Our nation's sustained economic growth and low unemployment, combined with an increased sensitivity to the needs of low-income working families have reversed the overall restrictive trends in unemployment insurance during the 1970s

and 1980s, producing positive developments on both the federal and state level. In this context, Illinois is beginning its current examination of unemployment insurance and related programs.

I have been asked to provide an overview of current developments in UI. My statement covers three areas of positive developments in unemployment insurance. These three areas are (1) positive state law changes taking place across the country in the last few years; (2); a newly proposed federal UI legislative package (known as the "UI consensus package") and (3) recent U.S. Department of Labor regulations authorizing unemployment insurance benefits for claimants on leave to care for a newly born or adopted child (popularly referred to as "baby UI").

State Legislative Developments

A large number of states have adopted positive UI measures over the last few years. States are considering a number of proposed UI changes that are "family friendly" as well. NELP's July 2000 publication "State Legislative Highlights (1996-2000): Expanding Unemployment Insurance for Low-Wage, Women, and Contingent Workers" summarizes these changes and proposals in detail and is attached to my statement. For the sake of brevity, I will highlight some selected state UI developments.

I. Alternative Base Periods/Monetary Eligibility

In the early days of UI, state agencies received and recorded wage information from employers manually. For that reason, the majority of states permitted at least one calendar quarter, and often longer, to pass before wages were considered in calculating a claimant's monetary eligibility for UI benefits. These states defined their "base periods" as the first four of the last five completed calendar quarters. Illinois retains this traditional definition of its base period, requiring claimants to earn \$1600 in their base periods, with \$440 in the second highest base period quarter.

Modern technology does not require long delays in the consideration of wage information in calculating monetary eligibility for UI. For most workers, state agencies now have wage information available within a few weeks of the start of a calendar quarter. Several states have adopted so-called Alternative Base Periods (ABPs) that consider more recent wages in determining monetary eligibility for workers without sufficient earnings in their traditionally defined base periods.

ABPs were recommended for state adoption by the federal Advisory Council on Unemployment Compensation in 1995. To date, twelve states have adopted Alternative Base Periods. Most recently, New Jersey, North Carolina and Wisconsin have done so, bringing one third of the nation's UI claims under state ABPs. The following illustration shows how base periods work in traditional and ABP states.

How States Define Their Base Periods

Traditional Base Period				Alternative Base Period	
First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Completed Lag Quarter	Filing Quarter
			Most states, including Illinois, end their base period after this quarter	Maine, Michigan, New Hampshire, New York, North Carolina, Ohio, Rhode Island, Washington, Wisconsin	Massachusetts, New Jersey, Vermont

ABPs permit the consideration of more recent wages in the calculation of monetary eligibility for workers without adequate base period wages in their traditionally defined base period. ABPs recognize that for purposes of measuring a claimant's work force attachment, wages earned in a recent quarter are at least as relevant as wages earned over a year earlier. ABPs have been found by several studies to especially assist low-wage and women workers who are new entrants or re-entrants into the labor force.

Studies of ABPs have found that they have expanded UI eligibility from six (6) to eight (8) percent without creating excessive costs for either UI benefits or program administration. According to the "principal finding" of a multi-volume study by Planmatics commissioned by the U.S. Department of Labor in 1997, the "costs of implementing the alternative base period are not significant when compared with the benefits offered to a wider range of claimants." Executive Summary, Planmatics, Inc., Summary of Findings on the Alternative Base Period (Vol. I) (October 1997). Most studies have found that benefit costs to the trust fund rose from 4 to 6% a year upon implementation of an ABP. In addition, estimated costs of ABPs are further reduced when consideration is given to the proportion of claimants that would have received UI eventually, by filing for UI benefits in a later quarter. For example, Washington state found that 39% of workers helped by their ABP law would have eventually filed a valid claim in a later quarter.

Administrative costs have not proven to be a significant barrier to ABP implementation, either. The Planmatics study surveyed administrative costs and found that actual costs of ABP implementation have been far lower than many cost estimates produced by state agencies in the past. For example, New Jersey, which kept the best records concerning its administrative costs, found that its one-time implementation costs were \$1.4 million, including the costs of software changes, personnel training, and hardware purchases. New Jersey estimated its ongoing costs at \$1.26 million. Washington state estimated its annual costs at \$528,175. Ohio found it incurred \$563,312 in charges for manual processing of claims while implementing computer changes, and estimated its ongoing costs at \$328,570. The Texas Workforce Commission in 1999 estimated its ongoing costs of ABP implementation at \$153,000 a year. While these administrative costs

are undoubtedly not trivial, they are far from excessive, given the substantial benefits to claimants and their families arising from ABPs.

NELP supports ABPs and has worked hard for many years to promote their adoption. We would hope that Illinois gives this option favorable consideration in the coming year.

II. Leaving Work for Domestic Circumstances. About 39 states, including Illinois, require that good cause for voluntarily leaving work be attributable to the employer. In other words, the cause for leaving must be related to employment in these states. Thirteen states recognize any good or valid reason as excusing a voluntary leaving, including many compelling domestic circumstances. Illinois law, while generally requiring employment-related good cause, recognizes certain particular circumstances as constituting good cause, regardless of whether that cause is related to employment. For example, an individual leaving work upon the advice of a physician to care for a sick dependent or parent is not disqualified in Illinois. However, Illinois law does not contain a provision that addresses compelling domestic circumstances generally or many recurring family/work conflict issues specifically.

A number of states that limit good cause to employment-related reasons have recognized that many workers in today's economy are compelled by family-related circumstances to leave employment and that denying UI benefits to workers in those circumstances is a harsh result. As a result, states have increasingly recognized specific domestic circumstances as excusing a voluntary leaving. Most states, as does Illinois under its voluntary leaving exceptions, do not charge the resulting UI benefit payments to the claimants' employers' experience rating account.

One recent law was passed by North Carolina, recognizing that "undue family hardship" constitutes "good cause" for leaving employment. North Carolina specifically provided that individuals unable to continue working due to a shift change that conflicted with his or her

ability to care for minor children or a disabled or aged parent is deemed an undue family hardship. Oklahoma permits claimants leaving work to relocate with a spouse or due to an illness or the illness of a minor child to leave work without disqualification. Rhode Island and Wisconsin have recently enacted laws spelling out that sexual harassment can constitute good cause for leaving. Illinois has a similar provision that was passed several years ago.

These state laws illustrate positive state responses to today's economy and today's working families. NELP plans to continue to work with our allies in many states to ensure that we maintain the momentum that is building to make UI programs more responsive to the needs of working families and their communities.

III. Domestic Violence. In too many cases, UI laws largely conceived in the days of the New Deal, failed to accommodate the realities of today's working families and today's economy. Domestic violence certainly was a reality in the 1930s, but was not explicitly taken into account in the drafting of UI laws until only recently. A number of state UI laws that recognize compelling domestic circumstances or personal reasons for leaving work address domestic violence under those provisions.

In addition, fifteen states (California, Colorado, Connecticut, Delaware, Nebraska, New Hampshire, New Jersey, New York, Maine, North Carolina, Oregon (by regulation), Rhode Island, Wisconsin, and Wyoming) have adopted state laws recognizing domestic violence as good cause for leaving work. Maine also protects workers fired from their jobs due to absenteeism related to domestic violence. New Jersey's voluntary leaving provision is among the more comprehensive and best drafted of the state laws addressing domestic violence.

Domestic violence provisions have been among the most politically popular state-level reforms of the last few years, but have not proven costly in states that have adopted the

provisions to date. They provide flexibility to keep domestic violence survivors attached to the labor market while providing prudent means to validate claims of domestic violence.

IV. Part-Time Work A number of states, including Illinois, have long-standing agency practices and policies that require claimants to seek full-time work, although workers may need to limit their work hours due to family responsibilities, partial disability, or other circumstances. In addition, part-time work is more prevalent in today's economy than in the formative years of UI. Low-income workers, working mothers, and older workers tend to have part-time work at a higher proportion than others. A number of states have been reexamining policies around part-time work in recent years, including Minnesota and New Hampshire.

The Advisory Council on Unemployment Compensation recommended in 1995 that workers meeting a state's "monetary eligibility requirements not be precluded from receiving Unemployment Insurance benefits merely because they are seeking part-time, rather than full-time, employment."

Although I am advised that this issue does not commonly arise in Illinois due to your automated claims-taking process, honest or uninformed claimants will still run afoul of eligibility provisions if they openly restrict their work search to part-time jobs. Given the large numbers of employers seeking part-time workers and the resulting increase in numbers of part-time jobs, those seeking part-time employment should no longer be viewed as avoiding work and violating UI eligibility requirements, in our view. For that reason, NELP has been working with advocates in a number of states to promote revision of full-time seeking work and availability requirements.

Current Federal Developments

I. Baby UI. In May 1999, President Clinton announced his intention to provide regulatory authority for states to voluntarily adopt state UI law changes making UI benefits available to workers on leave from work due to the birth or adoption of a child. This development is popularly known as "baby UI." In response to the President's directive, the U.S. Department of Labor issued final regulations on June 13, 2000 that provide states with added authority to act in this area.

NELP has been actively involved for several years with other partners in supporting state legislative proposals in Vermont, Massachusetts, and other states to grant UI benefits to workers on family and medical leaves. NELP worked to inform the U.S. Department of Labor about existing state UI laws that already provided flexibility to laid off workers similar to the flexibility proposed for birth and adoption of children under the baby UI regulations. A number of states, including the neighboring states of Indiana, Wisconsin, and Missouri, have considered baby UI bills, although no state has acted as this early date to adopt a baby UI law.

NELP believes that providing UI benefits to workers on leave for care of a newborn or newly-adopted child is an important UI reform measure worthy of consideration along with a range of other "family-friendly" UI reforms. While some employer groups have declared that the sky is falling due to baby UI, a careful examination of the proposal demonstrates that it is a relatively modest measure that is not a departure from existing state legal authority to define UI program eligibility. NELP believes that whether a state should adopt baby UI depends on a number of circumstances, including the solvency of its trust fund, the treatment of family-related circumstances in its UI law, and the priorities of advocates within each state.

More details about the new baby UI initiative are available at NELP's website (<http://www.nelp.org/action1.htm>).

II. Federal UI Consensus Package. For the last two years, state agencies, employers, and advocates for the unemployed have been involved in a consensus building process that has recently resulted in an agreed package of federal UI reforms. This consensus was possible because all parties realized after many years of attempting to separately enact their own legislative priorities that passage of unilateral changes was unlikely. ICESA, the association of state employment security agencies, provided leadership to convene this consensus process, and representatives of organized labor and unemployed workers along with employers worked in consultation with U.S. Department of Labor staff to produce the final proposed package.

An initial hearing is scheduled for today in Washington, D.C. to unveil the consensus package at a hearing of the Subcommittee on Human Resources of the House Ways and Means Committee, chaired by Representative Nancy Johnson of Connecticut. Based upon our discussions with participants in the consensus process, NELP understands that the key elements of this package include:

- Increased administrative funding for state UI agencies with a change from discretionary to mandatory treatment under the federal unified budget.
- Repeal of the .2 percent surcharge under the Federal Unemployment Tax Act.
- Improved triggers for the federal-state Extended Benefits program.
- A phased-in requirement for state consideration of recent wages in determining monetary eligibility with federal financial assistance for states.
- A requirement that states permit workers that meet monetary eligibility through part-time work be permitted to seek part-time work while drawing UI.

No one can predict whether the consensus UI package will pass Congress within the short time remaining in this session of Congress. The participants hope to pass the package prior to the anticipated October recess, if this is at all possible. Even fewer can say whether this proposal, if it doesn't pass in the next few weeks, can continue to garner the support of all parties

following the election of a new Congress in November. Regardless of the outcome in Congress, NELP is hopeful that the elements contained in the federal UI consensus package represent broader recognition that our UI system needs positive changes if it is going to continue to serve workers, employers, and our economy.

Conclusion

In conclusion, at no time in the last twenty five years have there been as many positive developments in UI as are taking place currently. States like Illinois are looking for ways to "make work pay," especially for low-income working families. There is increased sensitivity to family friendly issues and lower unemployment and a better economy have created some breathing space in trust funds for states to give serious consideration to addressing historical gaps in UI programs. NELP looks forward to continuing to provide resources and information to policy makers and advocates in Illinois and other states as part of this ongoing evolution. Ultimately, making UI relevant to today's working families and economy benefits not only the families of unemployed workers, but their neighbors, their communities, and the overall economy.

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Note: A number of other publications and background information on unemployment insurance developments and policy can be found at NELP's website <www.nelp.org>.

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How ABPs Help Workers With Recent Work Gain UI Benefits

Traditional Base Period				Alternative Base Period	
First Quarter January - March 1999	Second Quarter April - June 1999	Third Quarter July - Sept. 1999	Fourth Quarter October - December 1999	Completed Lag Quarter January - March 2000	Filing Quarter April - June 2000
Worked			Began October 13, 1999		Filed June 23, 2000
Wages			\$1,480.63	\$1,673.75	\$1,545.00
Total Wages			\$4,699.38		