

**DUA ADVISORY COUNCIL MEETING**  
**April 18, 2019**

**MINUTES**

The meeting started at 9:35 am.

**Council Attendees:** Richard Marlin, Brenda Wornum Moore, Katie Holahan and Ellen Wallace, Kirsten Siemering

**EOLWD/DWD/DUA/Public Attendees:** Rick Jeffers, Martha Wishart, Rena Kottcamp, John Saulnier, Marie-Lise Sobande, Katie Dishnica, Wendy Savary, Paul Fitzgerald, Marie Orlando (DUA)

**I. EXECUTIVE UPDATE:**

**Director, Rick Jeffers**

- A quorum was established, **Rich Marlin** motioned to approve minutes from the November 15, 2018 meeting, motion approved
- National Grid Lockout ended. A new bill was passed for extended benefits for workers which required to make changes to UI online system.
- Federal Government Shutdown. We had to pay benefits only to request money back, making progress.
- Lawrence team moved to Boston.
- Board of Review Chairman Paul Fitzgerald's term has expired. Paul has done an outstanding job and is respected by all. DUA is required to post position. We will be asking for volunteers for the sub-committee. Katie and Rich did an amazing job on the last sub-committee.
- Waiver Regulation change that was approved a while ago is complete and effective as of April 5<sup>th</sup>. There were no changes to bring back for approval.
- **Section 30 Regs** are in process, proposed draft pages from Sec of State were distributed by **Martha Wishart**. There is a public hearing scheduled for May 14 at 10:00 in Minihan Hall. Written comments must be submitted by end of the day May 14. You will be seeing these again in the May meeting for final approval before they are promulgated and expect to be final and effective in mid-June. **Director Jeffers** stated this will also be called Section 30C.
- Printout of MGL where the Advisory Council is mentioned.
  - MGL 23 Sec 9N - Establishes the Advisory Council and how the Advisory Council plays into the Board of Review and the nominating panel.
  - MGL 151A Sec 62 - Advisory Council Duties, powers and reports. Advise agency on policies. It is customary for Regs to be presented and voted on then promulgated from there. **Martha Wishart** mentioned that this has worked well. She also said these Section 30 Regs are a bit unusual because we are revising the entire chapter of the Regs. It usually is just a small section, this represents a huge overhaul.
  - MGL 151A Sec 20 - Requires us to come to you if we are going to enter into a settlement with an employer, which almost never has happened.
  - MGL 151A Sec 69A - Charging off uncollectable amounts. We are trying to make that process more regularly.
  - MGL 151A Sec 43 - Administering oaths and depositions. **Martha Wishart** has never seen this happen.
  - MGL 151A Sec 57 - Only comes into effect if the Federal Trust Fund disappears and we go to a State Trust Fund and the Advisory Council would need to participate in an investment board.

These are all the statutes the Advisory Council is mentioned in. One of the questions asked is why do we have to vote if it is not in the statutes? Although it may not be in the statutes it appears to have been launched in. **Martha Wishart** stated it is the most effective way to advise us and express your opinion on Regulations. **Katie Holahan** said her concern is that Sec 20 says "the Commissioner with the approval of the State Advisory Council", there is no language that says we have to vote and approve. **Martha Wishart** stated there is no specific language that says the council has to approve, but when we do the regulation promulgation, one of the questions in there is if you have an Advisory Council, has your Advisory Council approved these regulations? So the only way to express your approval is by vote, I don't see another way that can be done. **Director Jeffers** asked if there are any other ideas. **Katie's** concern is if their role is not specifically required or authorized, does that vote limit or can it be used to limit equal public access? **Martha Wishart** answered in her memory that has not happened. **Rena Kottcamp** stated there used to always be votes and approval of legislation, then the statute was reinterpreted to be more of advice and consent. **Rich Marlin** said he interprets MGL 151 Sec 62 is you can bring this before us for our advice and consent. If you wanted to do something we voted against you can still go forward with it. I don't think it has ever happened. We don't have authority to approve them but we are supposed to advise and consent. **Ellen Wallace** said if we don't have a consensus among us, we have to take a vote to see what the council is advising. **Martha Wishart** said we never had a situation where all the members said no. The Sec 30 Regulations have been a good example of this, and to come to a consensus among all of us as to what should happen. **Katie**

**Holahan** said what happened last time was we had changes to the Regulations and it wasn't clear to her coming into the meeting that what we were talking about was actually changing the language based on any member of the communities feedback and I think it was a pretty big deal to change the language before it goes to A&F and before it gets to the public hearing process. I didn't have the expertise in what we were talking about or have the opportunity to reach out and didn't understand we were making a decision at that point. I assumed any issues we had could be discussed at a public hearing point where everyone can have equal access. **Martha Wishart** said there is not really a discussion at the public hearing. **Director Jeffers** recalled the Regulations were brought to a meeting, and it was thought by some folks that they needed more time and were then brought back at a subsequent meeting. His recollection is there had been enough time to sit with it for a while to take a look at it. **Katie Holahan** said she didn't understand the process and substance of the vote. **Director Jeffers** said, this is custom and if you would like to go a different way you can propose it. **Ellen Wallace** said she is the person that proposed changes thinks that is what the function is and thank you for postponing it, and is sorry **Katie Holahan** didn't understand that was the opportunity to bring changes that you thought might need to be made, **Ellen Wallace** thinks it is a good process. **Director Jeffers** said the process is not over. After the May 14<sup>th</sup> public hearing there may be some changes again, that is the process. It's not over and just going through the motion. Sometimes draft regs are changed after a public meeting. **Martha Wishart** also said sometime A&F proposes changes. It can be altered at different points along the process, the comments added to the public hearing period, and then look at all the suggestions and may or may not make changes based on what the comments are. **Ellen Wallace** said some of the things that she suggested did not make it in the changes. **Director Jeffers** asked if there is more to talk about or if there is more thought. **Rich Marlin** stated he thought for years we had to approve the regulations before they were sent to A&F and according to this language we don't have to. In all fairness to everyone these regulations have been sitting around for 2 years. This was highly unlike any other regulations proposed with the turnaround time. **Rick** asked if there were any questions on the regulations and there were none.

- **Enforcement Efforts**

- **Revenue Director Marie-Lise Sobande** collected \$251,000 while working with the AG's Office on an Accounts Receivable case. Employer did not want to be prosecuted and wrote a check.
- **Marie-Lise** and **Martha Wishart** are working with the Cannabis Control Commission to get involved with their regulations with Licensing and Compliance. If a retailer wants a license, they would need to be in good standing with DUA before getting that kind of license.
- Started a dialog with the Division of Professional Licensure and have statutory language already to work with them. **Rich Marlin** asked if DUA still had a deal with the Alcoholic Beverages Control Commission and **Director Jeffers** answered yes it is a program that has been in place for some time. It drifted away and last September was brought back and brought in millions of dollars with that one compliance program.
- Katie asked if there were any concerns or complications with the Cannabis Control Commission. Rick answered No. There was a concern about banking but that seems to have resolved itself. California has been at it for a while and I reached out to them and what has been their experience and I feel that we are in pretty good shape.

- **Personnel Changes**

- UIPP Director Jen Lavin has moved on and is now working for DOL. We are in the process of filling that position.
- New hire in Economic Research Deputy Director Marissa Birtz.

- **Section 30A**

- Per Massachusetts law, when the twelve-month average unemployment rate for each of the Commonwealth's measured metropolitan areas is equal to or below 5.1%, the maximum number of weeks for which a claimant may receive unemployment benefits is reduced from 30 to 26 weeks. As of the end of March anyone who files a new claim is entitled to 26 weeks not 30. If it goes above 5.1% it will go back to 30 weeks, all claimants regardless of initial filing date, will once again be eligible for a maximum 30 weeks of benefits. This is the first time this was triggered since 2003.

- **Claims**

- Stop & Shop – Claims are being filed and we expanded our capacity to handle the influx of claims.
- This is normally a busy week with the school bus drivers and cafeteria workers. On Tuesday, 4/16/19 there were 3140 calls, which is more than double for a whole day. We are getting the message out there to file on line. **Rich Marlin** asked why on school vacation week do they file a claim if they are only going to be out for one week and the first week is a waiting week. **Director Jeffers** answered they are serving a waiting period. They will probably be back in the summer or filed at Christmas or February vacation. Rich asked if they served a waiting period in February, are they be able to collect in April. Rick answered Yes. Rich asked how long is the waiting week good for? Answer is the life of the claim.

- **DUA update** was sent to members in advance of meeting for review.

- Timely first payments were up
- The average speed of answer were down
- Higher Authority appeals are looking good
- Pending Cases are down
- Looking good all around.
- There were no questions on the presentation.

- **EMAC**

- Hardship waiver deadline was 4/12/19 and 190 were received.

**II. UI TRUST FUND UPDATE:**  
**Rena Kottcamp –**

- UI Rate is at 3%
- The jobs estimates through February was lower than last year.
- Preliminary March 2019 Massachusetts UI Trust Fund balance was \$956.4 million. The preliminary private contributory account balance was \$829.2 million and the governmental contributory account balance was \$127.2 million.
- Average weekly benefit amount in March 2019 was \$519.51, \$21.78 or 4.4% more than the March 2018 average amount of \$497.73
- The 17.2 week average duration of a claim in March 2019 was 0.2 weeks shorter than the average duration in March 2018. Average duration is computed on a twelve month moving average.
- Total first quarter 2019 preliminary benefit payments of \$420.5 million were \$28.5 million less than payments made in the same quarter in 2018, but at just \$1.5 million less were in line with the latest projection. Total initial claims and continued weeks claimed through March 2019 were 7.6 percent and 5.4 percent less than the same months last year.
- Preliminary employer contributions of \$143.1 million through the first quarter 2019 were \$11.8 million higher than last year's first three months collections but in line with the latest projection of \$144.7 million.
- The March 2019 preliminary private contributory account balance of \$829.2 million at just \$1.3 million lower is in line with the projection of \$830.5 million. The 2019 private contributory account year-end balance remain projected at \$1.561 billion.
- Each year USDOL publishes a UI Trust Fund Solvency Report. We can send a link to that. The report looks at the overall health of the trust fund. One page of the report is dedicated to each state and territory and a chart that ranks the solvency of the Trust Fund based on the feds solvency standards. Massachusetts has one of the least solvency trust funds in the country.

Meeting adjourned at 10:35

Next meeting is scheduled for May 16, 2019 - **Rich Marlin** said since the hearing is on the 14<sup>th</sup>, it would make sense to reschedule the meeting to the 23<sup>rd</sup>. **Ellen** mentioned she has a conflict on 23<sup>rd</sup>. A follow-up with additional dates will be sent to members for a reschedule.