

**DUA ADVISORY COUNCIL MEETING**  
**October 15, 2020**

**MINUTES**

**Council Attendees:** Richard Marlin, Brenda Wornum Moore, Kirstin Siemering, Ellen Wallace

**EOLWD/DWD/DUA/Public Attendees:** Rick Jeffers, Martha Wishart, Rena Kottcamp, John Saulnier, Marie-Lise Sobande, Katie Dishnica, Wendy Savary, Jeannie Pena, Paul Fitzgerald, Mavis Smith, Marie Orlando (DUA) and Monica Halas (GBLS), Brian Flynn (GBLS), Hanna Tanabe (GBLS) and Stephanie Herron Rice (Justice Center of SE MA)

A virtual meeting was held via Webex

A quorum was established, Rich Marlin motioned to approve minutes from August 2020 meeting it was seconded and approved.

**Director Jeffers, DUA Update:**

- Operationally there is more of everything. The volume issue and fallout of that is spilling over into every area of DUA business. We have hired a lot of people in the last six months and re-allocating resources all over. We are getting through it and putting people where they are needed in that point in time. We did issue a new policy relative to childcare. This will be shared with Advisory Council Members. Director Jeffers asked Martha to talk about policy.
- **Martha Wishart** stated: As school resumed, there was some difficulty with some of the concepts. We wanted to give specific guidance that would reiterate what is already there. We want to make the field aware of concepts as they apply to specifically to the school issues. We also wanted to make the UI side aware of some of the things that have been articulated on the PUA side particularly in one of the recent UIPL where it talks about for PUA purposes and the effect of the remote school environment is and what the hybrid environment is and the implications of the choice by the claimant as to send their children to school or not. We are happy to share it with you and we just wanted to remind people of these concepts. A lot is new to all of us and if you rely on old UI knowledge, we are finding that people aren't remembering that these concepts are being applied differently in the Covid 19 emergency.
- **Rich Marlin** asked – CARES Act got passed out of Washington to end 12/31. Will that affect this policy? **Martha** said some of the flexibilities are tied to the CARES Act provisions and some are not. It may change in some respects and not in others. At the moment a lot of things will be ending at the end of this year.
- **Director Jeffers** added the CARES act is ending at the end of the calendar year. Whether it is going to be extended is making it very challenging for us to plan. All we know it is expected to expire. It is difficult to forecast what our needs will be and how to meet them. We also have people in the PUA system that will expire all their weeks. In order to help those people, we will need some action. It certainly is on all of our minds. We will continue to talk about this in the next meeting. USDOL gave out some guidance in UIPL 28-20, which provided some funding to prevent and detect fraud. The money is supposed to be used for the PUA and PEUC programs, which are both CARES Act programs and want you to know we did respond to that application for the funds by September 15<sup>th</sup>. We did receive some funding through that guidance. Some \$2.4 million dollars was allotted to Massachusetts, so we do have that funding and we will be using it towards additional fraud detection and prevention tools as well as staffing. We're still developing our spending plan for that money, but we did go for what was there. In my opinion, it's good that there was some funding made available to do this kind of work, however by the time we got the money out there we were well into this this pandemic and all the things that come along with that it would have been would be great to have that that's money about six months ago but better late than never. We will put the money to good use and have more clarification by the next meeting. The Department of Revenue reached out to us asking to send a message to our claimant population and reminding claimants that benefits are taxable and will get a 1099. We will be issuing a communication within the next week or so saying that benefits are taxable. Members of the council, when you are speaking with your constituents, please remind them of that and we will share the communication with you.
- **Monica Halas** asked, when you put out that communication do you also give information about VITA sites (volunteer income tax assistance) for low income people? **Director Jeffers** said no, just what DOR asked us to. DOR drafted the communication and it did not mention any sites for people to be referred. **Director Jeffers** said to Monica he would like to know more about that. **Monica** said she can see a problem for PUA folks, when there was no way for them to withhold taxes when they first opened their claim. Whenever taxes are due, they panic and go to very expensive tax preparation places that take a lot of their money or give them a loan at very high rates. **Monica** will send information. **Martha Wishart** said just to clarify, PUA did not take out taxes in the beginning, but it was instituted a few months into the program. Everyone on PUA will probably owe on some type of taxable income and we did offer that as soon as we were able to.
- DUA suspended Call Center hours on Saturdays beginning 9/26/20. The call volume is manageable. It does not mean it won't be offered down the road. We put all the updated information on the website so folks would know when we're open and when they can call.

- The Emergency Regulations that were filed two separate times and the version that is in place now are set to expire 11/4/20. And everything that is in them goes away. At this point we don't have intentions of filing a third version and want to remind folks of the things that will go away. **Martha** mentioned the standby status is the main thing that will go away. The good cause and suitability are things we already have in our concept and we can adapt them to our circumstances and things will shift and change. **Director Jeffers** added that by the next time this council meets it would be expired.
- New Maximum weekly benefit amount in Massachusetts is \$855. Once again, the highest in the nation. Last year it was \$823. The new amount is for claims effective 10/4/20.
- Annual Rate Notices for employers. Every year DUA has a big project the Rate Team works on to get the notices out on time before the new year. Employers will know what their rate will be for the new year. At this point in 2020 we are on rate Schedule E. It is projected for 2021 to go to G, which is the highest schedule in the legislation. If anything were to change in the rate schedule, it would require legislative action. We are not in control what is in the statute, but we are planning for what we know, which is projected to go from E to G. If other folks step in and make changes, we will be prepared to deal with it. The way things are lining up now we can get the Rate notices out by January and that is our goal. Another update on the progress at our next meeting.
- Benefit charge statement and Reimbursable bills were sent out in August. This was another big project and will be sent every month. **Marie-Lise Sobande**, Director of Revenue added they are on schedule and going out monthly. Employers are reviewing them and getting back with protests and going as it should.
- Lost Wage Assistance - LWA program was created through an Executive Order by President Trump on August 8, 2020. We created that program and paid out all six weeks \$300 per week program. Subsequently and sort of recently we have heard from the legislature there is an interest in adjusting that program. One of the program requirements put forth by the federal government was in order to get the LWA benefits the claimant had to receive at least \$100 a week minimum. We built the program according to the federal guidance and we are in compliance with what they said. There has been some interest in the legislature on raising the floor to those who had been below the \$100 to raising everyone up to \$100 to be eligible to for those six weeks of benefits. It is something we have heard about from the legislature and we are getting a lot of questions about DUA and we are asking questions of USDOL and FEMA to see what's possible. Ultimately in order to make those changes it would require legislative action. It is not within DUA's authority to do that.
- **Rich Marlin** asked, following up to the Childcare piece, is it retroactive to August when school started? If they filed on Sept 1 and got denied should they reapply? **Martha** answered the Policy is not meant to be a change. We are reminding people of what they should be doing. If they got denied they would need to appeal or ask for a redetermination.
- **Stephanie Herron Rice** asked if someone got denied for that reason switched over to PUA, should they move back to UI? **Martha** asked if they would have been eligible in PUA because they were denied UI, because they could answer yes to the PUA questions, because they were affected by covid because the kids school was closed? The claimants could do that and probably want to make sure they don't claim the same weeks and create an overpayment. This is a great question and will take it back and get a response out to the council and to Stephanie.
- **Ellen Wallace** asked in looking at the deck and slide 8, Lower Authority Appeals Decisions, Percent Favoring of Claimant/Employer what is attributing to why there such a dramatic change that employers are winning appeals at a rate of 2-1 when it used to be relatively even. Is there anything that is attributed to? It could be the types of hearings. **Wendy Savary** said we are dealing with a lot of PUA hearings right now, regular UI hearings are focused on claimant appeals and I don't know the answer right now, but we could look into it. **Martha** added it could be that it reflects that we are doing a lot of single party cases that are being overturned and the chart makes an assumption of two party issues. We have been doing a ton of identity issue appeals and a lot of them have ended with people not showing up and losing and that could be reflected in the chart. **Rick** answered it could be and we can look at the data and will get some specifics on that piece.

#### **Trust Fund Update: Rena Kottcamp**

- o At the end of August, the overall Trust Fund Balance was -\$1.336 Billion. Massachusetts is the only state that has two separate account balances within their trust fund. The Governmental state and local governmental accounts that became subject to the law in 1978 when the trust fund was also broke and we had similar case load volume. They didn't want to be responsible for paying back the private debt. That balance remains positive with \$131 million and private is -\$1.467 billion.
- o Weekly benefit amount is \$385 running much lower than a year ago of \$533. If you have an open UI claim that you are on or a thirteen week extension called PEUC, if benefit year ends, we have to check to see if you had new wages since then to qualify for UI. Some people have qualified with much lower monetary rates because they have had lower wages since original separation. What we are seeing an increase in claims with partial earnings.
- o Average duration of a claim is 14.8 weeks
- o Through the end of August preliminary benefit payments of \$4.713 billion through August 2020 were \$3.809 billion higher than those paid in the same time span in 2019 and \$167 million more than the latest projection.
- o Initial claims and continued weeks are running high, although. The last 12 weeks the continued weeks claims dropped because of two reasons, partial earnings issue and some people are moving on and exhausting and moving to the other program. We have the extended PEUC program that's give you 13 more weeks. That is the fastest growing program right now and as of last week we have about 125,000 claims on that program and have been increasing at high rates as people are exhausting their claims and moving into those

- programs. Benefits outlays are just over 9.2% higher than same time last year. We expect to end this calendar year with a deficit.
- Employer contributions through August are \$137 million less than last year, but 13 million higher than projections.
  - The overall balance is extremely high and the year-end balance is projected to be \$ 2.8 billion. There are a lot of things in CARES and our ability to get programs up to pay people faster. Half of Reimbursable Employers are getting reimbursed 50% by the federal government and we instituted those changes in the same time period as **Marie-Lise** mentioned for the billing. In CARES the one week waiting period was waived. In regular UI the first week is a waiting week. In CARES Legislation we are getting the first week compensated on each claim in regular UI and EB and being reimbursed from the Trust Fund.
  - We expect to have very high benefit payments for next year.
  - The data that was released at the federal level, which triggers the extended benefits program that we are on, Massachusetts had only 267,000 continued weeks claims. That is the lowest since early Spring and is half of the number on claimants on regular UI. We also have more people on the other extensions. We do not include the PUA program. The money flows through the Trust Fund but equals out and is not covered by UI.
  - In September we took 195,000 initial claims, YTD we have 1.346 million initial claims and continued weeks we have taken YTD 2.3 million, and YTD 13.5 million weeks. PEUC Program extension gave up to 13 weeks, 101,000 initial claims and 285,000 continued weeks claimed in September.
  - The Extended benefits program triggered on May 3<sup>rd</sup> but due to other extensions people weren't eligible for this until the first week of August. In Sept there were just about 6500 initial claims there and just under 51000 claimants.
  - The first week of March through the end August we had just over 916,000 claimants who received at least one week of Regular UI benefits during that period. The outlook remains high. We have what is called the insured unemployment rate. The rate here is slightly over the rates following the 1975 recession as a percent of total wages in the system which makes it a new record high. The current 13 week moving average rate that is used to trigger EB is 6% insured unemployment we are down to 11.5% we peaked at 18%. EB moving average The EB Program will stay on after the end of December. It is funded 100% for contributory employers, state and local government will pay their portions.
  - Taxable wages for private employers is \$42 – 45 billion. Most of these charges are going to solvency from the private employers who are 99% of the system. We will put out slightly modified projects. Any questions. Rich Marlin asked, at the end of this year is expected to have a 2.8 – 3 billion deficit? Does that include all the reimbursements you think we are still going to be able to get? Rena answered yes we are trying to finalize this week. Would that take the 3 billion and reduce it. Rena said there are a fair amount of federal reimbursements in addition to paying for the extensions. Rick added it is interest free borrowing for now, but does not last forever. Rena answered correct.
  - 2021 all the loans are interest free. The Feds want you to have a solvent Trust Fund, when you borrow from the feds, private employers have to pay interest for the loans outstanding. We will have a negative balance January 1<sup>st</sup> and interest will be accruing on the balances. The interest payments are due in the Fall the current estimate for the interest is \$60 million, which requires legislation. It can't be paid out of the Trust Fund.
  - Director Jeffers asked if there were any questions and mentioned if there are any agenda items you would like to add each month, he would be happy to add to the agenda. Just send to him.
- **Rich Marlin** said he had a question sent in earlier on a member working at UMass Memorial from a contractor in Connecticut or NY, who didn't pay into MA UI and when the member went to collect he wasn't able to collect. Another member lives in MA and worked in NY, where should they file? **Mavis Smith** of Constituent Services answered if they only had wages in NY to file in NY. He would need to have wages earned in MA to file here. Mavis also said she was working on the first inquiry as well and will get back to Rich Marlin.
  - **Monica Halas** asked if there was any talk on the new Advisory Council and interested in the Status of that. Rick said there is some movement, but will have an update at the next meeting.
  - **Monica** also asked about the Lost Wage Assistance, is the administration waiting to file legislation or waiting for legislation to file legislation. Rick said he does not know and waiting to get the answers. It is definitely a hot item and whatever will happen will be happening soon. There is clarification needed from either FEMA or USDOL It is an unusual program and we are closer to getting clarity.
  - **Ellen Wallace** stated she sent an example of a person with an F1 Visa. **Director Jeffers** answered he received it and moved it along to get an answer.

Meeting adjourned.

Next meeting is scheduled for November 19, 2020 at 9:30am