

## DUA ADVISORY COUNCIL MEETING March 2, 2017

### MINUTES

The meeting started at 9:45 am.

A quorum was not established therefore minutes from the October 15, 2015, January 21, 2016, April 21, 2016 and June 16, 2016 meetings were not approved.

Introduction of new council member Kirstin Seimering to all in attendance.

**Council Attendees:** Richard Marlin, Ellen Wallace, Kirstin Seimering

**EOLWD/DWD/DUA/Public Attendees:** Robert Cunningham, David Guberman, Rena Kottcamp, Eileen O'Rourke, Jennifer Lavin, Rick Jeffers, Marie-Lise Sobande, Paul Fitzgerald, Monica Halas (GBLS), Marie Orlando (DUA)

#### I. EXECUTIVE UPDATE:

##### Director Robert T. Cunningham

- Director Cunningham presented a review of DUA. Key points include:
  - FTE Headcount;
    - As of January 2017 DUA is at 483. **Monica Halas** asked if the count will change. Rob answered that this can seasonally adjust.
  - Benefits and Call Volume;
    - 4% decrease in Total Active Claimants
    - 3% decrease in Total Weekly Payments
    - 1% increase Payments year to date
  - Call Volume is down for w/e 2/24/17 which was 7,712 with Average Speed of Answer of 24:46. We are changing some of the ways we are handling the call services.
  - First Payment Promptness;
    - Continues to improve. January was the first time in a decade that we filed a timely month. We built processes to make timely first payment. **Rich Marlin** asked in his industry what are the biggest glitches/reasons that cause a delay? He can work with employers to try and fix it. **Director Cunningham** answered; in construction most times it's not the initial claim but the re-open process. DUA is trying to diagnose whether there is a problem and make sure the guidance is correct and will get back to Rich on it.
  - Non-Monetary Determinations Timeliness;
    - Have consistently improved. Have been successful in non-sep timeliness in the month of January. Almost there in being successful. The feds made some rule clarifications that allow us to effectively auto adjudicate certain claims. The primary one is RESEA. If they don't go to Career Centers when required to go, we are determining they are disqualified. That effort to streamline our work process has led to an unexpected outcome to be very close to our timeliness on non-seps.
      - **Monica Halas** asked if someone doesn't show up, is that an automatic denial? Rob answered yes if they just don't show up. **Monica** asked if there is notice and an opportunity to provide a good cause reason? Rob said yes they are notified if they are not able to attend they should contact us and inform us. **Rick Jeffers** answered they get a letter asking to provide good cause in advance and we are doing robo calls and doing everything we can to get them in the door to get them back in the labor force. **Monica** asked what percentages after those efforts don't appear? **Director Cunningham** said there are not that many. Notices for RESEA are sent with your 1<sup>st</sup> payment. The biggest reason is that people went back to work or didn't think we were serious. **Monica** asked would any of those individuals already be identified as LE? **Director Cunningham** answered that they would have been identified as LE. **Monica**

**Halas** said she has been getting calls saying a case has been pending since June, but when a call was made to customer service it would get resolved. Rob asked if she knew what the issue was and Monica said she would get back with the information.

- At the end of 2016, for a large portion of Continued Claim issues if they go beyond timeliness, we are paying and not holding on lots of issues. The issue is still there in a backlog of issues to be worked, but we are no longer holding.
- Lower Authority Appeals in DUA Hearings Dept;
  - With staffing down and increase volume the metrics are down. DUA is hiring Review Examiners and will get some stability. The expectation is to continue to be successful and bounce back.
  - within 30 days – the goal is 60% DUA is at 40%
  - within 45 days – the goal is 80% DUA is at just under 70%
  - Lower Authority Appeals Decisions – 51% In favor of Employers & 49% in favor of Claimant
- Higher Authority Appeals;
  - Meeting the Federal metric. Board of Review continues to improve by working down their pending case load and case aging.
  - **Monica Halas** stated that she was on the UI Commission and one of the agreements was when there is a delay in issuing a decision in lower or higher level if there would be consideration given and bumping someone in the que if there was a hardship. Has that been implemented? Rob answered not at this point in part because we are not getting information from DTA. **Marie-Lise Sobande** will check in with DTA. Paul Fitzgerald added that if it is brought up at the BOR level that a hardship exists, they prioritize that case and work on it as quickly as possible. **Rob** added generally when DUA is made aware of a hardship, it is addressed.
- Revenue Department;
  - Overpayments: Fraud vs. Non Fraud Overpayments Detected
  - Revenue Enforcement: Field Audit – Collecting Employer Debt. DUA automated the compliance check. This can be done online but the dollar amount is not tracked as easily.
  - Audits – in 2015 DUA was successful in meeting all requirements for an audit and again in 2016 despite staff reductions.

Director Cunningham asked if there were any questions. There were none.

- Feedback on 430 CMR 9.00: Training Benefits under MGL c 151A, § 30(c).
  - Ellen Wallace recommended changes to the following: **1)** Expand rather than restrict training opportunities. **2)** Reduce the burden on claimants and clarify the duties and responsibilities of DUA, the Career Center and Training Providers. **3)** Restore and improve opportunities for A) Non-English proficient claimants and B) Individuals with disabilities. **4)** Comply with the statutory changes recently enacted in 2016, Chapter 219, section 107-110. **5)** Incorporate Workforce Investment Opportunity Act (WIOA)
  - **Director Cunningham** began discussion that on the DCS side there is a clear goal to play in the form of an assessment, approved by DUA, that identifies you are in need of training to find suitable employment and long term career pathway type employment, to open up more opportunities and flexibility in matters like apprenticeship and on the job training. There have been internal discussions around the 20 hour rule. The understanding and impression is if you need training you are not required to search for work or accept a job if offered to you. The concept is you are exempt from looking for a job because you are not able to because you are otherwise working full-time. If you are in training 10 hours a week, there is an argument that says there are plenty of people working full-time and going to school for 10 hours a week. 20 hours is at the threshold for part-time so now you are in full-time occupied training because you are in a classroom setting for 20 hours, which is the standard we hold people to. I am trying to standardize what is acceptable instead of having 15 different exclusions.
    - **Rich Marlin** asked when someone is training 5 days a week from 10-12, if they get offered a job 9-5, would they have to quit because it was offered. **Rob** answered, in theory today it is yes. If we determine through the assessment process that you need training the concept is not just a giveaway, but to insure for employers that they invest in people so they are not back collecting all the

time. If they are not working they should be in full-time training, which is 20 hours a week. For someone who English is not their primary language and the only thing they can do is 2 hours a day for ESOL, there must be some other training or courses in their native language. **Rich Marlin and Monica Halas** said the backlog is so big. **Monica Halas** said this should be a discussion with Ron Walker and others because people desperately want ESOL classes and want to work and earn money. The waiting list is enormous and offered at crazy times and not enough hours to satisfy, which is why the regulations changed to say that if someone didn't have another opportunity, a smaller number of hours would be accepted. As a matter of statutory law, if you are determined to be in need of training you are deemed to be looking for work so you don't need to look for work, it's already being taken care of. This is imposing a requirement that I don't think you can do under the statutory. **Rob** said if we are able to do a good assessment that would properly identify what this person needs to get a job with a long term career then we get them the training they need. **Monica** said she agrees on the basic principal that people who need training should be able to get it. Another concern is universal assessment and will it be done on a timely basis. **Rob** said he would like for those that can, do their work on line, and do all registration with DCS including the assessment as part of the application period process. A large majority of folks are already doing their applications on UI online. This will better inform them and get them into the job services side right at the beginning and for those that we can, get the assessment up front. The challenge is to find a way to ensure folks that can't use a computer, have quick access to get training. **Rich** asked are you only going to approve training that is 20 hours a week or greater? **Rob** answered in theory the goal is yes. You are leveraging the time when you are unemployed to either look for work aggressively or learn aggressively.

Further discussion on Section 30, training days and times, number of hours, ESOL issues and suitable employment were discussed. **Rich Marlin** stated that DCS personnel should know the Section 30 requirements and if a person is going to lose benefits. **Rob** said some of the burden should be on the claimant to define to us what happened and what was said.

- **Monica** has concerns with the language for 9.03 Eligibility of Claimants and Special Conditions for Training Extension Benefits (3) The Director must determine that the claimant (a) is applying for training for a high-demand occupation and either b) has been separated from a declining occupation as determined by the Director or c) has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations. The way this is drafted **Monica** said it's restricting anyone who hasn't been separated from a declining occupation as determined by the Director or has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations. **Monica** added if you quit a job and you are found eligible for unemployment you are not eligible for Section 30 anymore. **Rob** agrees there is a way of reading this that states exactly that and will look at the language. This program is supposed to be if you have lost your job and don't have the skills to get another job like it or a better job or suitable employment and long term sustainable, you get the training.
- **Ellen** asked if there is a way of knowing if people actually got better and sustainable training. There are no numbers. Part of the regs get into that we want to hold both training providers and claimants accountable, but not in an intrusive way. An additional question on certification or a call in to IVR Number and put a clt ID on the day you are absent.
- **Monica** asked about WIOA and WIA. **Rob** said the two purposes do not necessarily converge all the time. When they do it's great and where they don't it becomes administratively difficult when it is a WIA approved program in another state. We have run into this in other states where they have applied for Section 30 and we deny it because it is not one on our list, and they come back and say your regs say it is WIA approved. It is a loophole that is unnecessary. The vast majority of the WIOA approved programs that intersect with us is done as part of

the same process or very similar. **Monica** added the reason why she is pushing back on this is the inconsistencies with the career centers. Rob stated the goal is to get information that takes weeks to accumulate at DCS at the beginning of the application process. It's easy for those who can do the electronic way and harder for those who may not be able to. That is something we need to figure out.

- **Rich** stated that in 9.04 (c) The Apprenticeship Program wording needs to be clearer. **Rob** agreed to look into the wording.
- **Monica** asked about the Good Cause provision. **Rob** said he is still working on it and is hoping to have it in the definitions at the beginning of the regs, the goal is that it has great similarity across the board.
- Regs will go through the formal process that includes feedback from public hearings and making timely recommendations. There will be one redline that goes from the original regs to the new ones.

## II. UI TRUST FUND UPDATE:

### Rena Kottcamp

- Preliminary January 2017 Massachusetts UI Trust Fund balance was \$913 million. The preliminary private contributory balance was \$798 million and the governmental contributory account balance was \$115 million
  - Average weekly benefit amount in January 2017 was \$485.87, \$32.13 more than the January 2016 average amount of \$453.74.
  - The 17.5 week average duration of a claim through January 2017 is 0.6 week shorter than the average duration for the same time span in 2016. Average duration is computed on a twelve month moving average.
  - Total Benefit payments of \$153.5 in January 2017 were \$26.7 million higher than total payments made January 2016 and \$8.9 million more than the latest projection.
  - Projected Employer Contributions through May 2016 was \$813.9 million were \$15.6 million lower than last year's collections for the same time period.
  - January 2017 private contributory account balance of \$798 million was \$11 million less than the latest projection of \$809 million.
  - Rena reviewed UI Claimant Characteristics Report for w/e 1/14/17 showing claimants by occupations and industry along with average weekly wages prior to UI claim by industry and occupation for January and December 2016 and January 2017.
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- Next meeting is scheduled for April 20, 2017