No Relief to Those Who Need It Most

The Unemployment Compensation Crisis of 2016-2017

Contact:

Julia Simon-Mishel
Staff Attorney, Philadelphia Legal Assistance
jsimonmishel@philalegal.org
215-981-3889
I. Overview

The Pennsylvania Unemployment Compensation System is no longer effectively working for the unemployed. Funding issues, as explained in CLS's paper “Déjà Vu: PA UC System’s Structural Funding Deficits Must Be Repaired So That the Program Works for Unemployed Workers,” have decimated the staff and capability of the system. Pennsylvania’s unemployed workers, who have also paid into this system throughout their work experience, are bearing the brunt of the consequences. Claimants are unable to communicate with the system, which prohibits accurate and timely decision-making and leaves individuals frustrated and confused during one of their most vulnerable times. This paper reviews the current system and provides personal anecdotes from claimant experiences across the Commonwealth.

II. Current Staffing

On December 19, 2016, the Department of Labor and Industry furloughed nearly thirty-five percent of the staff that handle unemployment compensation matters throughout the system. The furloughs included, but were not limited to:

- Service Center staff,
- Unemployment Compensation Board of Review Referees and clerks,
- Unemployment Compensation Board of Review legal and administrative staff,
- Department of Labor and Industry legal staff, and
- Department of Labor and Industry policy staff.

The Department closed three of its Unemployment Compensation Service Centers: Allentown, Altoona, and Lancaster. The Philadelphia Service Center was closed in August 2012. There are only five operating Service Centers at this time: Indiana, Erie, Scranton, Duquesne, and Harrisburg Overflow.

The Service Centers handle the bulk of the unemployment compensation system workload. The Service Center staff consists mainly of claims representatives and claims examiners. Between the two, the Service Center:

- Processes initial claims for benefits, income reporting, and changes to eligibility,
- Processes appeals of benefit determinations and employer's requests for relief,
- Investigates claims for benefits,
- Adjudicate and mail determinations about eligibility,
- Investigates overpayments,
- Answers phone calls from claimants and employers,
• Processes and responds to fax communication from claimants and employers, and
• Processes mail from claimants and employers.

All of these responsibilities, for the entire Commonwealth, are now handled by fifty percent of the Service Center staff who handled them prior to the furloughs.

The Department also furloughed thirteen Referees, over a quarter of all Referees in the Commonwealth, and a significant portion of the administrative staff that run the Referee offices. The Referees serve as administrative law judges and adjudicate all appeals from determinations issued by the Service Center. Last year, 72,641 appeals were received by the Referee Offices and 9,105 appeals were received by the Board of Review.

III. Communication with the Service Center is Nearly Impossible

The job of a UC claimant is to apply for and find employment. When routine communications with the Service Centers becomes impossible, the claimant’s attention and energy is shifted away from the more productive job of searching for employment and towards the simple act of getting benefits.

A. Claimants cannot communicate with the Service Centers

Communication with the Service Centers is a vital part of a functioning unemployment compensation system. The majority of claimants communicate with the Service Centers over the phone through the statewide phone system. Claimants call a single phone number that redirects them to the first available Service Center representative. However, the phone system only has a queue of 900 spaces. Millions of calls to the statewide phone system have resulted in busy signals. Claimants who do successfully get into the queue past the busy signal wait for hours to speak with a representative, and may lose their chance if they are still waiting when the Service Centers close at 4pm (although claimants are told they will get a call-back). The Service Centers are currently only accepting phone calls on Mondays, Tuesdays, and Thursdays.

Claimants can go to a local CareerLink to use a phone that connects directly with a Service Center representative. However, CareerLinks have reported lines of 60 – 100 claimants waiting to use those phones.
Claimants have been steadfast in their attempts to reach the Service Center, for example:

- A claimant called the Service Center 103 times over a three week period and only got past the busy signal once – and then was disconnected after twelve minutes.
- A claimant called and was put on hold for three hours before she had to hang up, and then called every thirty seconds on the next two available days from 7:55am until 9:30am and never got past a busy signal.
- Claimant stayed on the phone for four hours until his call was dropped. He then called several times and got a busy signal, but then got through and waited on hold for two hours until his call was dropped again.
- Claimant tried calling, emailing and tweeting over two weeks with no response or successful communication.
- A claimant tried calling at all hours during all three days, over 50 times a day, and never got past a busy signal.
- Claimant and advocate attempted sending a fax to the Erie Service Center, could never get past a busy signal on the fax line throughout the day.
- Claimant has been trying to reach the Service Center for 6 weeks and has never been connected to a representative.
- A claimant went to CareerLink two days in a row and waited in line all day both times and was never able to use the direct phone line.

Claimants often do not have the resources, like available minutes on their phone or means of transportation to a CareerLink, to continue to pursue contact with the Department. These attempts take time and energy away from most unemployed workers’ main goal: finding a new job.

B. **Claimants often need to speak with a Service Center representative**

There are a variety of reasons why a claimant may need to speak with a representative, including the following examples:

- The claimant does not understand why his or her benefits have been stopped.
- The claimant received a message that his or her claim is inactive and that he or she needs to call the Service Center.
- Claimant had stopped filing for benefits when work started, but then her temporary assignment ended and she needed to provide information about the separation to restart benefits.
- Claimant filed for benefits over a month ago and has still not heard anything about his claim.
The claimant made a mistake on the online application and is trying to fix the mistake.

Claimant has filed for benefits and was found eligible but has not received any benefits after filing bi-weekly claims.

The claim has been “under review” for three weeks and no benefits have been received. Claimant is temporarily laid off for two months and at this rate does not think he will receive any benefits during the layoff.

Claimant tried to reopen an existing claim twice online and it did not work. The PAT system would also not reset. He needs to speak with a representative to reopen.

Claimant needs a PIN number because it either never arrived in the mail or has been misplaced/forgotten.

Claimant is trying to find out how much is owed on an overpayment so she can pay it back.

A claimant received a voicemail from a UC representative telling him that he needed to contact them with information.

Claimant received documentation in the mail asking him to call the Service Center.

Pennsylvania’s unemployment compensation system has many moving parts and requires considerable information from both claimants and employers. When individuals cannot communicate with the Department, claims cannot be correctly or swiftly adjudicated.

Many claimants who call the Service Centers are looking for explanations about their current situation, clarification about documents they received in the mail, or directions about how they can fix their benefit eligibility. When they cannot reach the Service Centers after many attempts, they may understandably stop trying. This may result in the failure of a deserving claimant to appeal an adverse determination. Often, claimants stop filing their biweekly claims once they cannot reactivate their account, meaning that they will not be able to receive any benefits for those weeks even if they are found eligible. Inability to communicate with the Service Center leads to vulnerable unemployed Pennsylvanians never receiving the benefits they deserve and need.

C. Online resources have not been sufficient

The Department, along with claimant advocates, has attempted to steer claimants to use the online resources available at www.uc.pa.gov. While some claimants reported that they were able to file their initial claims online, rather than over the phone, the majority of claimants who required assistance had needs that the web site was technologically incapable of meeting. Some claimants were able to use the on-line system to check the status of their claim, but they found that the online system provides only limited
information. Many claimants saw that their claim was “inactive” but did not understand what that meant, or what steps they could take to make the claim active. Claimants who tried to re-open claims online found the instructions to be very confusing. The re-opening of a claim online is not a fully automatic process because it requires a Service Center representative to manually process the action.

Even claimants who used the online systems for communication, like a Service Center email address or online form, reported waiting days or a week for a response, and that at times the response asked them to call the Service Center.

In addition, many unemployed workers are unable to use the online system at all. Many do not have computer or internet access at home. Others are not computer or internet literate. For individuals with language barriers, the telephone system with an interpreter is the only way for them to communicate with the Department. While some pages of the website are provided in Spanish, the newer resources on ways to utilize the online system appear only in English. The Department has also created some useful video tutorials for claimants, but those are also only available in English.

Even many individuals who have internet access and are computer literate are not sufficiently knowledgeable about the complexities of the unemployment compensation process to be able to manage their claim without the assistance of a live representative. The complicated questions stemming from benefit issues are often unclear. Additionally, many people are unable to confidently apply abstract rules to their own situation.

IV. The System Does Not Work for Those Not Working

Almost every part of the unemployment compensation system has slowed and can be expected to get even slower as the backlog of claims builds.

A. Claimants are waiting longer to receive initial benefit determinations

For most unemployment compensation claimants, the time period immediately following the loss of their job is when they have the greatest need for benefits. Many low wage earners in Pennsylvania live paycheck to paycheck and do not have the personal savings to cover expenses when they suddenly lose their job. That is the time when the unemployed are most at risk for falling behind on rent or mortgage payments, cannot pay their bills, struggle to put food on the table, and must now cover all of their own medical expenses.
Claimants are now waiting longer to receive initial determinations about their eligibility for benefits. This is in part due to the cut in staff handling these adjudications. It is also highly influenced by the fact that claimants are unable to return telephone requests for information during the initial claim investigation, extending the investigation period. This means that: a) claimants who are found eligible are waiting longer to actually receive any benefits; and b) claimants who are initially denied are experiencing an even longer time period from initial filing to a Referee hearing. The result of these delays is that claimants are experiencing longer waits for their first payments during a time of financial crisis.

B. Changes to eligibility are processed slowly

There are many reasons that a claimant’s eligibility for benefits may change over their claim period. Claimants may need to re-open a previous claim based on a new separation, provide an update about partial earnings, or inform the Department that they are now able and available to work\(^1\). When claimants cannot get this information to the Department, their eligibility or claim information cannot be updated. Oftentimes even if a claimant gets this information to the Department, there may be follow up questions by a representative that require additional communication with the claimant.

Claimants may also become eligible after an appellate adjudication, either by a Referee or by the Board of Review, reverses an earlier determination. The Service Center then needs to process the new decision and release benefits.

D. Parties are waiting longer for appellate adjudications

With twenty-five fewer administrative judges, the scheduling of hearings on benefits appeals and decisions from those hearings are taking longer. The ratio of appeals to Referees makes the quick scheduling of hearings more difficult. The shortage of administrative staff means that paper claimant records pile up, and hearings are not scheduled, because the clerk typists who enter the information into the computer cannot possibly keep up.

\(^1\) Section 401(d)(1) of the Unemployment Compensation Law states that “compensation shall be payable to any employe who is or becomes unemployed, and who . . . [i]s able to work and available for suitable work . . . .” 43 P.S. § 801(d)(1). The availability requirement of Section 401(d)(1) seeks to insure that claimants remain realistically attached to the labor market in a given week. *Unemployment Comp. Bd. of Review v. Matthys*, 357 A.2d 230, 232 (Pa. Commw. Ct. 1976). Whether or not a claimant is “able and available” is a week by week determination.
As a result of the ratio, the Referees have a much higher case load for decision-making. The increased case load then slows the clerk typists, who are responsible for typing up the Referee decisions and transmitting them to Harrisburg for printing and mailing. Parties to the hearing are therefore receiving decisions at a much slower pace than before the furloughs.

The legal office of the Board of Review also saw substantial cuts to staff attorney and administrative positions, and has also been slower in issuing decisions. As time goes on, we expect to see a more significant delay from both Referees and the Board, similar to what the system experienced in 2012.

V. **No Relief to Those Who Need it Most**

Unemployment compensation, provided to individuals who have lost their jobs through no fault of their own, prevents newly unemployed workers and their families from falling into the cycle of poverty. But when low-income Pennsylvanians cannot quickly receive the income stabilization of UC benefits, they suffer the consequences swiftly and harshly. For example:

- A claimant who had a heart attack on the job and was rushed to heart surgery could not return to his normal job because of specific medical restrictions. He was initially denied for benefits and it took two months from his application for him to receive a hearing. During this time, the claimant was not able to pay his rent and is currently living in a shelter.
- A single mother of two has been filing for benefits for over a month but has not received any indication as to whether she is eligible for benefits, or when she might receive them.
- A father in a family of five can only find per diem work after his last job and must rely on unemployment compensation benefits to supplement his income. While he waits for benefits to come through he has struggled to put food on the table and pay his mortgage.

There are countless more stories from struggling unemployed workers across the Commonwealth. Low-wage workers who lived paycheck to paycheck are now falling through the gaping hole in the only safety net we have for workers. The unemployment compensation system is simply not working for those who need it the most.

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