

Hard Working Pennsylvanians Deserve a Working UC System

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My name is Julia Simon-Mishel. I am a Staff Attorney at Philadelphia Legal Assistance. As an attorney in the Public Benefits Unit I spend the majority of my time on unemployment compensation cases on behalf of low-wage workers. During the previous year I represented over 150 clients in the unemployment compensation process and supervised the representation of countless more. Thank you for inviting me to provide written testimony and be available to answer questions about my clients who are struggling to get adequate support through the unemployment compensation system.

Low-wage claimants were hit hard by the furloughs at the Department of Labor and Industry (“DLI”). It will be disastrous to Pennsylvania’s workers if the unemployment system returns to the staffing levels and dismal service experienced during the furloughs. This testimony addresses the impact of the recent furloughs, the future faced by claimants if long term supplemental funding for DLI is not established, and the claimant perspective on DLI’s upcoming benefit modernization.

I. 2016-2017 DLI Furloughs: When the UC System Stopped Functioning

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

- Unemployment Compensation Service Center (“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 Service Centers handle the bulk of the unemployment compensation system workload and the Department closed three of its eight locations: Allentown, Altoona, and Lancaster. The Philadelphia Service Center was previously closed in August 2012. Only five operating Service Centers remained open: Indiana, Erie, Scranton, Duquesne, and Harrisburg Overflow.

The Service Center staff consists mainly of claims representatives and claims examiners. Among other tasks, the Service Centers handle a number of critical functions:

- Processes initial claims for benefits, income reporting, and changes to eligibility,
- Processes appeals of benefit determinations,
- Processes employers’ requests for relief,
- Investigates claims for benefits,

- Adjudicates and mails determinations about eligibility,
- Assesses eligibility changes, such as able and available
- 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.

Without adequate staffing, the system is unable to properly complete these functions for the hundreds of thousands of claimants who file claims each year. This became particularly apparent during the furloughs, when it was virtually impossible for claimants to connect to the Service Centers, as consistently reported by media outlets last winter and spring.

My office has spoken with claimants who:

- called the Service Center 103 times over a three-week period and only got past the busy signal once – and then was disconnected after being on hold for twelve minutes.
- called and was put on hold for three hours before having 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.
- stayed on the phone for four hours until the call was dropped. Then called again several times and got a busy signal, but then got through and waited on hold for two hours until the call was dropped again.
- 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.

Sadly, these stories are not exceptional – rather they were the rule during the furlough.

The closing of the Service Centers squeezed other parts of the system. CareerLink staff took much of the brunt of the furlough. In order to make use direct-access telephones at CareerLink offices, claimants waited in lines 60-100 people long every day of the week. They also sought answers from CareerLink staff, who are not permitted to provide assistance on specific case questions as that is outside their jurisdiction. Unemployment Compensation Referee Offices were also disrupted; claimants would call the offices or appear in person seeking information about their claims when they were unable to get through to the Service Centers. Having to handle this additional traffic significantly burdened these offices who were themselves short-staffed because of the furlough.

In addition to a complete inability to communicate with the Service Centers, claimants also had to wait an agonizingly long time for determinations and payments of benefits. I saw first-hand the swift and harsh consequences faced by my clients when they were unable to quickly receive the income stabilization of UC benefits. They were evicted from their homes, couldn't make child support payments, and lost access to vital resources needed for their job searches, like cell phones and cars, all because they were not able to receive benefits. And it is important to mention that

most of these clients should have received benefits immediately – they did not have problems related to eligibility that delayed their benefits.

The short-term funding passed earlier this year has alleviated some of these problems as Service Centers work through the backlogs, although claimants are still experiencing significant delays. Without an adequate long-term solution, the UC System will relapse into the same unsustainable downward spiral where even eligible claimants cannot access their benefits.

II. Pennsylvania Workers Cannot Afford a Crippled System

Auditor General Eugene DePasquale's report made clear that what my clients experienced in the first half of this year was a cakewalk compared to the reality to come if the UC System does not receive steady supplemental funding. The report found that without significant state supplemental funding, DLI will need to close three additional UC Service Centers. The loss of staff would essentially turn the remaining Service Centers into claims processing centers and create a UC system operated solely online without any telephonic assistance.

The furlough experience confirmed what we already know about online only systems – they do not work for a large portion of unemployed Pennsylvania workers. During the furloughs, DLI directed claimants to online resources to reduce the phone calls to the Service Centers. But many claimants do not have computer or internet access at home while others are not computer or internet literate. For individuals who do not speak English as a first language, the telephone system with an interpreter is the only way for them to communicate with the agency. Although some pages of the website are provided in Spanish, newer resources on ways to utilize the online system appear only 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.

But even for people who are computer literate, DLI's online system currently cannot process or collect the type of information needed for Service Centers to adjudicate many types of claims and correct common claim issues. For example, calls to the Service Center were necessary when a claimant:

- received a message that his claim was inactive and that he needed to call the Service Center.
- stopped filing for benefits when she started a new job, but then her temporary assignment ended and she needed to provide information about the separation to restart benefits.
- filed for benefits more than a month ago and had still not heard anything about his claim.
- made a mistake on the online application and was trying to fix the mistake.
- filed for benefits and was found eligible but had not received any benefits after filing bi-weekly claims.
- had a claim "under review" for three weeks and no benefits have been received.

- tried to reopen an existing claim twice online and it did not work. The automated PAT system for biweekly claims would also not reset.
- needed a PIN number because it either never arrived in the mail or had been misplaced/forgotten.
- was trying to find out how much she owed on an overpayment so she *could pay it back*.
- received a voicemail from a UC representative telling him that he needed to contact them with information.
- received documentation in the mail asking him to call the Service Center.

In 2016, 981,000 initial claims for UC benefits were filed, a slight decrease from the 1.1 million initial claims filed in 2015.¹ Closing nearly all the Service Centers in the state would incapacitate the UC system. With minimal staffing and only a few processing centers, wait times for benefit processing on even the simplest of claims will increase exponentially – leaving unemployed workers without any economic stabilization in a time of financial crisis. Investigations into contested claims, claims problems, overpayments, and relief from charges will slow to a halt.

Pennsylvania's unemployed workers cannot afford for these predictions to become reality.

III. Benefit Modernization Can Provide Increased Efficiencies and Access – But Also Presents a Potential Minefield

In its August SIIF Report to the General Assembly, DLI announced that it has begun the benefit modernization process with its chosen vendor, Geographic Solutions, Inc.

As DLI begins modernizing the computer systems that run UC related processes, it is important to recognize that this process has the potential to create significant efficiencies but also cause significant problems. The modernization effort must be handled very carefully to gain all the benefits of a well-working modern system while avoiding the pitfalls that have plagued many other states that have undertaken this process.

By streamlining the system, modernization can positively affect the future funding needs of the UC Office. Modernization may also solve some of the communication and information collection issues raised above. DLI will require supplemental funding to support the modernization efforts. Modernization funding must not be taken from the operational funding of the agency lest DLI return to the crippled system of late 2016-early 2017.

The need for modernization is an accepted reality among UC state leadership across the country. As a recent survey by the National Association of State Workforce Agencies shows that over seventy-five percent of agencies surveyed believe their UC IT system and infrastructure needs to be updated:

¹ See DLI's 2016 Actuarial Evaluation, <http://www.workstats.dli.pa.gov/Documents/ActuarialEvaluation.pdf>.

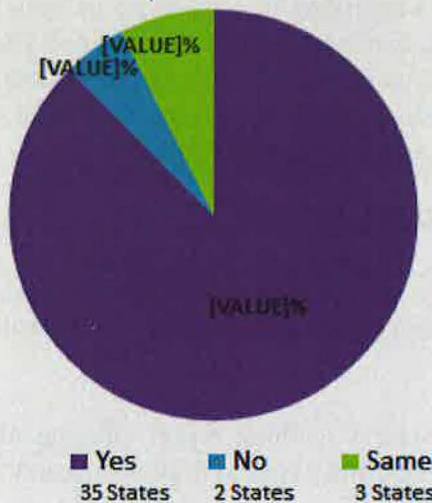
How would you categorize the status of your IT systems and infrastructure?

	Adequate	Needs Improvement	Barely Functional
Benefits Count	9	29	2
Tax Count	13	24	3
Fraud/overpayment detection Count	13	26	0
Appeals Count	14	25	0
Accounting Count	13	23	3
Other Count	6	9	3

Provided by NASWA at the 2017 UWC Conference, available at <http://www.uwcstrategy.org/2017-conference/>

A vast majority of states reported that their current IT costs have *already been increasing*:

Are your IT costs increasing? (40 States)

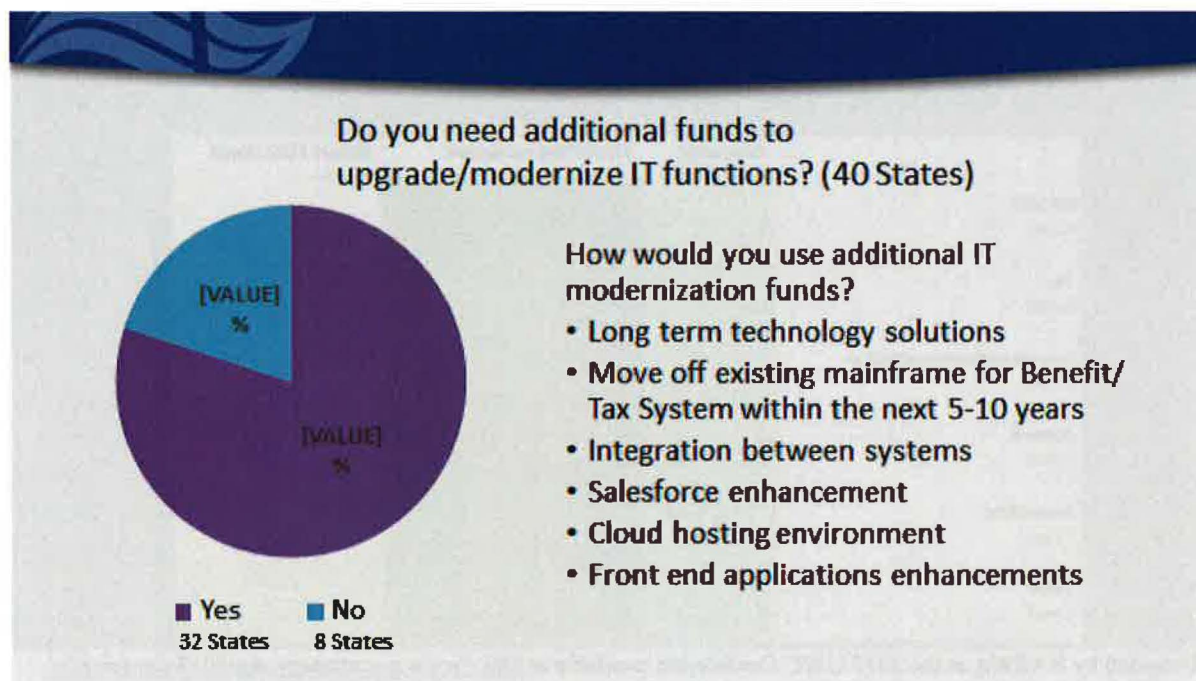


IT Costs that are increasing:

- Infrastructure
- Maintenance & Support
- Development
- Staffing rates

Provided by NASWA at the 2017 UWC Conference, available at <http://www.uwcstrategy.org/2017-conference/>

Finally, **80% percent** of the states surveyed report that they need additional funding to modernize:



Provided by NASWA at the 2017 UWC Conference, available at <http://www.uwcstrategy.org/2017-conference/>

DLI has already contracted with GSI and begun planning for modernization. We support DLI's plan to modernize and hope it will allow for smoother communication between Service Centers and claimants, clear and helpful online resources, claimant access to specific claim information online, language access, easy online appeals, and simple and straightforward information reporting systems.

Pennsylvania has already experienced problems in attempting to modernize its system with the IBM contract. Our experience is not unique. Although other states have been successful in putting a modern system into place, many have had disastrous results for their claimants and employers after implementing a new system. These modernization efforts have received critical evaluations by various state auditors from which Pennsylvania can take important lessons.

a. Cautionary Tales of Modernization Efforts

Two other states, Tennessee and Louisiana, have modernized using the vendor chosen by DLI, Geographic Solutions. Both states encountered significant data transfer and implementation problems.

In Tennessee, the Comptroller of the Treasury issued a scathing report alleging management failures, problems with the vendor meeting deliverables, and a rushed implementation.² The 2016 Comptroller report found that:

² The Comptroller's "Single Audit Report, Division of State Audit, for the Year Ended June 30, 2016" (hereafter "TN Report") can be found at http://www.comptroller.tn.gov/repository/SA/2016_TN_Single_Audit.pdf.

Department management implemented GUS [the modernized system] in the face of known deficiencies, including unresolved testing errors, insufficient verification of the data conversion process, and inadequate training of staff.³

The failure to properly modernize the system had far reaching effects for Tennessee: it was unable to timely review and pay claims, send required decision letters to claimants, timely schedule appeal hearings, and timely respond to users' requests for assistance.⁴ GUS failed to correctly and fully transfer data from the legacy system and encountered conversion errors that delayed the system and its federally mandated reporting, and resulted in incorrect reporting to DOL.⁵ The report also noted a failure by GSI to provide training designed to process complex claim scenarios.⁶ In its response to the audit, the Department noted a failure by prior management to involve more long-term claims staff who may have been able to predict some of these complex problems.

In Louisiana, the Legislative Auditor found that the modernization implementation was deficient in many respects⁷, including:

Even though HiRE [modernized web-based system] had not passed all testing necessary to demonstrate consistent functional operation, the former LWC [Louisiana Workforce Commission] management implemented HiRE on November 9, 2015, without the prior system as a parallel fallback. Additionally, improper conversion of data from the old system led to data imported into HiRE with missing or incompatible fields and missing historical records.⁸

LWC's new system had additional issues with security controls, compliance with federal regulations, financial reporting, improper benefit payments, and federal reporting requirements.⁹

Other states have experienced disastrous results from their modernization efforts that have garnered media and legal attention, not just those who have used GSI. The system implemented by Michigan's Unemployment Insurance Agency (UIA) in 2013 and known as the Michigan Integrated Data Automated System (MiDAS), has been the subject of litigation in both state and federal court about constitutional and statutory violations allegedly caused by the program. The Michigan Office of Auditor General released two audits of the UIA system in February and April 2016 that corroborate many of the allegations raised in the lawsuits.¹⁰ The problems of the UIA have received significant press attention, including an in-depth report by the Detroit Metro Times

³ TN Report at 372.

⁴ TN Report at 372-423.

⁵ TN Report at 386.

⁶ TN Report at 373-74.

⁷ The Legislative Auditor's Financial Services Audit Letter (Dec. 14, 2016) (hereafter "LA Report") can be found at [http://app.la.state.la.us/PublicReports.nsf/0/75F71BBD2CDA081686258089006513D9/\\$FILE/00011DB2.pdf](http://app.la.state.la.us/PublicReports.nsf/0/75F71BBD2CDA081686258089006513D9/$FILE/00011DB2.pdf)

⁸ LA Report at 2.

⁹ LA Report 2-14.

¹⁰ The Michigan audits can be found at <http://audgen.michigan.gov/archive/archive-2016/>.

and an article by The Guardian titled “Michigan unemployment agency made 20,000 false fraud accusations.”¹¹

Florida’s new web-based system encountered numerous problems, most importantly that it failed to pay benefits to claimants, leading to federal DOL intervention, and a reciprocity decline that led to only 1 out of 8 unemployed workers receiving benefits.¹²

b. Pennsylvania Can Learn From, and Improve Upon, the Efforts of Other States

While the problematic implementations of modernized systems in other states are concerning, they should not stop Pennsylvania from making the much needed updates to its computer systems. Instead, they offer a vital roadmap of how we can make it through this technological minefield unscathed.

Benefits modernization presents a challenging intersection of law and policy. One important takeaway from the experiences of other states: it is difficult to predict the multitude of problems that can occur during this process. The design choices, data transfers, communication changes, and programming of complex legal and policy process will no doubt result in errors. However, Pennsylvania can manage this complexity by engaging individuals in the process who are best suited to identify potential errors or challengers: users of the system.

None of the modernizations cited in this testimony engaged users of the system in their processes. **Pennsylvania should constructively engage users in the design, testing, and implementation of our new system.** Users include: claimants and their advocates, employers and their advocates, and Service Center staff. These front-end and back-end users, who understand the system from perspectives that cannot be framed or imagined by an outside vendor, need to be partners with a voice in this process. Engagement of users will also permit a smoother implementation by understanding what users will need to know about the new system and considering that in the eventual roll-out.

The experiences of other states also highlight the following essential points:

- **Implementation cannot be rushed.** Many of the problems above resulted from rushed implementations by agencies trying to meet deadlines. As the Tennessee AG report noted, state officials must “recognize all of the costs associated with ineffective system implementation projects, not only the dollars wasted, but also the inefficiencies created and the negative impact on the people the state serves.” It must be a priority that

¹¹ See <http://www.metrotimes.com/detroit/criminalizing-the-unemployed/Content?mode=print&oid=2353533> and <https://www.theguardian.com/us-news/2016/dec/18/michigan-unemployment-agency-fraud-accusations?>

¹² See news reports at <http://www.tampabay.com/news/business/floridas-unemployment-benefits-website-was-not-ready-for-launch-and-state/2164594> and http://www.huffingtonpost.com/2014/01/15/florida-unemployment-website_n_4605187.html?ncid=engmodushpmg00000006. See also *Ain’t No Sunshine: Fewer than One in Eight Unemployed Workers in Florida Is Receiving Unemployment Insurance* (NELP 2015), found at <http://www.nelp.org/publication/aint-no-sunshine-florida-unemployment-insurance/>.

Pennsylvania not move to the modernized system until it is fully tested and prepared for roll-out.

- **Funding must cover the running of dual systems for a sufficient period of time.** Some data conversion issues are inevitable. Pennsylvania's UC system is substantially larger than that of most other states that have modernized, and therefore also has more data in its system. DLI has already proposed funding both the new system and legacy system for a warranty year, but that is so the legacy system can be decommissioned during that year. The above examples counsel that Pennsylvania should consider fully running both systems for at least a year until we can confirm through internal and external audits that all data has been successfully transferred. This also ensures that Pennsylvania maintains its ability to timely submit all federal reports.
- **The vendor must be held accountable for its deliverables.** Vendor issues played a prominent role in the modernization efforts of other states and significantly impaired DLI's previous efforts to modernize.
- **DLI and the vendor must work jointly to design and run training for agency staff.** A new system will require new training. Failure to train, especially on the more complex aspects of the system, will impair any implementation. It also presents another opportunity for staff to identify potential problems.

Benefit modernization can provide DLI with important capabilities our current UC computer system lacks. At a time when Pennsylvania does not receive sufficient operational funding from the federal government, modernization can also present avenues for new efficiencies and cost savings in the long run. It will make sense to re-evaluate funding needs once the new system has been active for several years.

I am confident that DLI can successfully improve the experiences of employers and UC claimants through benefit modernization. I simply ask that we go into the process with eyes wide open.

Thank you for this opportunity to speak with you on this important topic. I would be happy to address questions.