

SEIU Local 668 Testimony on Pennsylvania's Unemployment Compensation System



Testimony of Service Employees International Union (SEIU), Local 668

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Good morning. My name is Shawn Domenico. I am an Unemployment Compensation Claims Examiner, and I live and work in Allegheny County. I have worked at the Unemployment Compensation (or UC) Service Center in Duquesne, Pennsylvania, since January of 2010. I want to begin today by thanking the House Labor & Industry Committee for convening today's hearing on the UC program in the Commonwealth. Hearings are a vital part of committee work both for the education of our legislators; but, indeed, for the education of our citizens. So I appreciate the invitation and opportunity to speak today from both Majority Chair Cox and Minority Chair Mullery. I also want to recognize that participation by the other guest panelists and viewership by citizens is crucial. Lastly, I want to thank my union siblings for their work and partnership now and during the past ten years. Without their tireless efforts, it would be impossible to withstand the challenges of every day.

Many of you have rightly been asking questions about how you, the members of the Pennsylvania General Assembly, can take action to improve our Commonwealth's Office of Unemployment Compensation (OUC). The coronavirus pandemic has brought to the forefront the longstanding institutional challenges our system faces - challenges that are not dissimilar to those faced by other states. In my testimony, I'll provide you with some historical context and background on the challenges faced by OUC, but I'll start by making the following recommendations.

The three most consequential things this body and the broader General Assembly can do to strengthen OUC in the short-term and the long-term are:

- Fully fund the OUC system, which means to supply the appropriate funding necessary to return full-time employee (FTE) complement back to pre-2008 levels,
- Implement legislative changes at the state level that reduce complexity and bring more workers and employers into the system, and
- Work with your counterparts in the federal government to secure additional federal funding for Pennsylvania's OUC, as well as advocating for simplifications of the law that allow UC workers to make more rapid eligibility determinations while simultaneously safeguarding UC trust fund assets.

I'll take a minute to fully define what I mean when I say fully fund the UC system. A fully funded system doesn't just provide funding to hire Intermittent Intake Interviewers to answer phones, texts, and emails. It provides funding to:

- Bring on board enough new hires so that all staff can train and improve customer service as well as read and learn the UC laws
- Allow experienced staff to help establish administration policies, work in teams, provide due process, and mentor the next group of leaders
- Let staff train appropriately and successfully use the modernized benefit system
- Have temporary space during the pandemic to train newly hired staff

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- Make the system a supportive one for all, not a painful one for all

While the Commonwealth does indeed face challenging economic conditions, fully funding the system may mean a very high level of investment and hiring at the outset. But it also means that your constituents, the unemployed workers in Pennsylvania get the benefits they deserve quickly, so they can put food on the table and keep the lights on. It means the difference between grocery shopping and going to a food bank. It means the difference between a child being able to eat more than the meals provided at school each day. And for many in dire straits, it means the difference between life and death.

I'm going to start my remarks with some background that I believe you may find helpful to appreciate these recommendations. I, like many of my co-workers, have been on both sides of the OUC system. And in recent weeks, I've frequently been asked about what working in OUC is like right now. I think that that answer is an important one. Still, it can only be fully understood if you understand what working in OUC is like under normal circumstances and what it's like working in OUC during a "normal" economic downturn.

And while I fully understand the frustrations of constituents, and perhaps some of you, who would love us to open up call centers tomorrow, the truth is ***UC law is complex. Eligibility determinations are complex.*** Different laws dictate what steps must be taken to determine the eligibility of workers in various industries. Claims from workers who may have been called back to work for a week and then been furloughed again require different steps to process than a worker who has simply been furloughed once. Employers may dispute claims and are entitled to their due process. Among other takeaways, I hope that my experience in OUC, as outlined in this testimony, illustrates for you how complex it can be to get benefits to people.

Simply put, our ability to determine eligibility is usually the ***biggest driver of delays in getting payments out to people.*** The delays in receiving benefits your constituents currently face ***will not*** be alleviated with a call center or a new computer system. Benefits ***will flow more quickly*** to those who are eligible when ***we have the right amount of staff to process claims*** and when ***emergency UI relief laws are designed*** not just with claimants but ***with processes and resources in mind.***

Working in OUC shortly after the Great Recession

As I stated previously, I began service with the Commonwealth at the Duquesne UC Service Center in January 2010. At that point, I had already been out of work for over nine months after 15 years of working in retail customer service. During the first few years of working for the UC Service Center, I was an entry-level employee - an Intermittent Intake Interviewer - known to many as the "triple-I." The job was advertised as part-time and with a flexible schedule. After some time away from a grueling job in the service industry, I was willing to work the 6-day schedule if needed. It turned out that working six days a week - 37.50 hours per week was not a terrible thing. But even

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after three full years (2010, 2011, and 2012) - I still had much to learn about the work of Unemployment Insurance (UI). During those years, the Emergency Unemployment Compensation (EUC) program was renewed and offered claimants up to 53 weeks of benefits beyond their original claim of Unemployment Compensation (UC).

Additionally, the State Extended Benefits (SB) program - which provided up to 20 more weeks of benefits - was also active. You'll remember, this program was established in June 2008 by former President Bush during the Great Recession. Learning how to navigate each of these programs, differentiate between them, understand how/why they existed and in what order to pay those benefits was a crucial skill. It was pivotal because workers were tasked with providing proper customer service and administering the regulations set forth by the governing bodies in a reasonable amount of time. During those years, I dealt almost exclusively with claimants - never getting the opportunity to provide employers service. Only the most highly trained and seasoned staff were placed onto the employer service line - which is separate from the claimant line. However, I learned one thing above all - providing these benefits was essential to unemployed workers, supportive for struggling employers, necessary for economic stability, and complex to administer.

Despite all of this, I was not removed from the possibility of layoff myself. The specter of losing employment continued to loom. As a son of western Pennsylvania, I saw the effects of boom/bust cycles as a child in rusted mills, closed industrial parks, and dilapidated strip malls. *And so, in 2012, the UC Service Center in Philadelphia was closed. Those 75 workers were the first of many to be laid off over the decade in various parts of the Department of Labor & Industry.*

I didn't know it at the time, but this was the first step in the wrong direction. Within the next year, I would experience a 4-week full furlough and then a 13-week reduction in hours that was tangentially related to the United States budget sequestration in 2013. During this period, I was assigned to work on "back end" work with monetary eligibility. These assignments helped me to realize how state-level legislation could directly impact our daily work. *As 2013 opened, explaining and executing the monetary eligibility changes that resulted from Act 60 of 2012 brought our staffing needs into stark relief. As experienced staff left or retired and newly-hired workers were laid off, explaining issues to claimants and implementing actions to execute those rules became increasingly time-consuming. As we lost staff, training became both necessary but problematic.* (Pennsylvania Statute, n.d.)

It took until the summer of 2014, after 4.5 years as a "temporary" worker, for a position to finally become available, and I earned a promotion to become a Permanent Interviewer - or simply an Intake Interviewer. Functionally, I had no real change to my duties. Instead, the difference meant I would have an uncomplicated ability to enroll in employer-based healthcare that the union had procured. A new procedure arose at work in the agency – a concept known as "specialization," which resulted in assigning only certain work to different service centers. This also resulted in

Duquesne and Allentown being the offices that worked on post-claim crossmatch audits. *Because of the understaffing that followed the economic downturn from 2008 to 2012, knowledge about how to use the legacy computer system as it had been designed was becoming increasingly sparse.* Valuable tools were not implemented, and, instead, spreadsheets were used to track and modify work. Experienced staff members would later discover the feature, and I would be selected for a project to use the mainframe to start tracking these audits in preparation for overpayment review. Regardless, the complications that occurred as this practice entrenched set the various service centers in precarious positions - as they became more dependent on each other while simultaneously less able to process and train on any issues.

All this occurred between 2014 and 2016 - as the workers tried to deal not only with the problems brought on by specialization but budget impasses that caused economic turbulence.

Widespread OUC Layoffs in 2016

Participating in the re-attempt to procure a new benefits system based on more modern software products meant more time was being spent on advising, reviewing, and preparing for that day. Suddenly, this work was abruptly interrupted at the end of 2016. *A critical four-year funding bill for the UC system in the Commonwealth - House Bill 2375 of 2016 - was not passed,* while House Bill 319 would be signed into law (Act 144 of 2016), which would reverse many of the changes made to worker eligibility requirements by Act 60 of 2012. *In other words, at the exact time as OUC workers faced layoffs, more Pennsylvania workers had legally become eligible to file claims.*

In the months that followed, two UC Service Centers (Lancaster and Allentown) were permanently closed. Another (Altoona) was shuttered temporarily, and a large contingent of workers in the Harrisburg location were furloughed. The immediate results were the furlough of approximately 500 workers, the upheaval of vast amounts of work, and the sudden backlogs of claims. By January 2017, the situation had become a significant problem, forcing groups like Community Legal Services of Philadelphia, Philadelphia Legal Assistance, Philadelphia Legal Aid to create additional mutual aid tools for citizens. (Pennsylvania Legal Aid Network, n.d.).

And because of this, I was pulled away from the audit project using the established computer system. I was instead brought to work on claims related to the Trade Act - known as "TRA." Trade Readjustment Allowances (TRA) are the cash income support paid to workers who meet certain criteria and are always unemployed after losing work due to adverse trade actions. These claims provide valuable support to claimants retraining/retooling after the usually large employer in their town closes down. But these claims are labor-intensive to process because there are additional requirements above and beyond regular unemployment compensation. Additional questions must be answered (14 questions) for each week of benefits claimed. To meet the federal requirements, these answers must be captured on a claim form that is kept in hard copy in the UC

Service Center. Prior to specialization in 2014, all nine remaining UC Service Centers kept a portion of these based on their regional allotment. But, specialization caused Duquesne (and Erie, Indiana, Scranton, Lancaster, and Harrisburg) to move their TRA cases and files to Altoona and Allentown. These two offices took ownership of all TRA cases in the Commonwealth. When those two offices closed, all those files and all those claims had to be re-routed to Duquesne (Indiana assisted for a short time).

Worse, all those with the knowledge of TRA were now either laid off or stuck in local offices without any oversight over the work (Erie, Scranton) or retired. I recall feverishly learning the TRA workload as the boxes of claims were transferred to our office. The boxes filled three rooms at one point - a conference room - a vacant managerial office - and one half of our training room. In the first few weeks, whenever there was an issue for a claimant that necessitated a file folder, I would have to get up and search the rooms - hoping I could find the correct box. This went on for months. Each day was spent desperately trying to get anything done: process claim forms, review training certifications, answer calls from established participants, interview and explain the program to new participants, find necessary folders, learn the program, and learn the changes.

Meanwhile, we had to struggle to bring staff back to other offices, but could not hire more staff in our office because of the funding issue. Due to this, the Duquesne UC Service Center's TRA unit couldn't file all the petitions (ranging from the early 80,000s to the newly broken 90,000s) into wall cabinets in an orderly manner until early 2018. *Also, in 2017, after almost a year of negotiating, begging, and angry yelling by citizens in every county - an austere funding bill had been passed. But by then, two offices had permanently closed, and our staffing levels were now lower than ever.* We continued to process claims as best we could, but the damage had been done. Like a weakened patient discharged from a hospital, our agency was weak and not fully able to care for itself.

2017 turned to 2018, but we had fewer workers than before 2016. During 2018 and early 2019, I collaborated with others in the TRA unit to streamline the work. By implementing best practices, we came to provide better customer services despite a continuing influx of new petitions. Yet, we could not earn more staff for the unit. As was customary, experienced staff were pulled away to other more pressing assignments.

A curious paradox continued to occur: other units were understaffed and working feverishly as well. This continued all through 2018 and 2019. To illustrate the point further, *I participated in a LEAN review of the process* by which improper payments (also known as "overpayments") are detected, investigated, adjudicated, and created in May 2018. During the weeklong session, workers from all offices and all classifications provided input on the process. *By the end of the week, we had assessed the value stream and identified numerous ways to make the process faster, simpler, and more effective.* But the new process did not hinge on cutting out workers or training. To the contrary, *it reinforced that more workers and more training were necessary.* As

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2019 opened, I began to worry whether we could achieve our goals before another severe economic downturn. The mess we were cleaning out from was not a systemic economic downturn but an administrative one that was self-inflicted. Exacerbating the challenges faced by our small workforce size, we received less financial support from the federal government and less from the Commonwealth than the year before. Meanwhile, I was about to be called on to be a Claims Examiner.

In May 2019, after almost 9.5 years with the agency, I began training as a UC Claims Examiner. While my training was thorough, it was also limited. This was by design. Examiners must first learn how to follow the procedures to ensure due process and then learn the difference between involuntary (discharge) and voluntary (quit) separations. The difference is not just a matter of common sense, but unemployment law and court precedent. And after a very brief period dealing with theoretical concepts, I was handed real cases - real people to review and address.

It is stressful at first to be handling the dispute between a worker and an employer. And collecting the information and documenting that fact is not as simple as one thinks. It is essential to be organized, thoughtful, and tenacious. By the end of 2019, I was beginning to feel like I had a better grasp on it and was eager to learn more in 2020. There were numerous sections of the UC Law that I had not yet worked on or only just learned: reasonable assurance, self-employment, severance pay, pensions, full-time employment. And there were still some separation court precedents I had not yet adjudicated. As 2020 opened, I thought I would be focusing on this as well.

But, in January 2020, more volunteers were solicited to work on testing the modernized benefit system being fitted in collaboration with the product vendor. Because of the travel involved, fewer volunteers from Duquesne had stepped forward, and I realized I needed to volunteer. A diverse section of workers would be needed to test the system and find all the bugs before it could possibly be launched.

So I volunteered, and within two weeks, I had to begin commuting once per week on Monday mornings to Harrisburg to test. I stayed in a hotel in Harrisburg for four days and traveled the other day (split into Monday morning and Friday afternoon). I quickly discovered that the new benefits system was user-friendly (as it was web-based software) - but that much testing remained to be done. In my mind, it was clear I would be doing this until at least July - and possibly all the way to the end of the year. Meanwhile, I became concerned that a great deal of time on the project was being occupied by navigating all the new computer applications in use: new applications for tracking expenses, new applications for tracking assignments, and the new computer system itself.

Working in OUC During the Pandemic

However, all this was interrupted by the pandemic. After just six weeks in Harrisburg, I suddenly had to coordinate and guide workers into telework with the agency and local management leadership. During the first weeks of the pandemic, workers organized to keep the office socially distanced and allow time for a plan of staggering shifts and transitioning to home workstations. While the agency searched quickly for all available hardware and set up the software, our union kept workers informed via the Department of Health and encouraged them to locate a space in their homes that could sustain a workstation for some time. *However, as we prepared for the work, claims were piling up at an unprecedented level.* By the time we were back up and running, the claims load was beyond belief. However, the worst was yet to come.

This was because the nature of our economic system meant that more workers had become invisible over the years - whether intentionally or not. The representatives in Congress rightly recognized that these workers would need support and modified the Disaster Unemployment Assistance (DUA) program into the Pandemic Unemployment Assistance (PUA) program. The difficulty was the expanse of the need. *In prior times, a small group of people would be affected following a flood or hurricane. But now, the entire Commonwealth (and the nation) were affected. This meant that more claims were going to be necessary - even beyond the regular UC claims.*

Additionally, unlike normal downturns, where UI was used to provide workers a bridge between employment, UI has been used to keep workers from working temporarily due to the pandemic risks. This is fundamentally at odds with the nature of the unemployment system and related law. In reality, it meant that additional friction between employees and employers arose quickly. *All that friction manifested in disagreements over unemployment and led to an abnormally high number of separation issues needing to be addressed.*

Lastly, the sudden need to process claims with insufficient staff led to extraordinary levels of overtime. I and many others felt compelled to work overtime and work through the claims load. But the sheer number of claims was insurmountable. And the need to socially distance meant new-hire training was unavoidably less effective. This slowed the ability of the agency to bring on staff quickly enough. *As the Department worked to ramp up staffing levels, progress was slowed because some workers burned out by summer and chose to stay on course for planned retirements.*

Because of all the shrinkage in the agency over the years, the institutionally knowledgeable staff were now worn dangerously thin. And on top of all this, the staff were still being expected to work on the benefit modernization project. The project remains a priority both because it will rightly provide claimants much of the information they so desperately call us to receive, but also, in part, because it has sometimes been mistakenly hailed as a panacea for the *entire* UC system.

While other states delayed or struggled to launch the PUA program, the Commonwealth used the new benefit modernization project platform to implement the PUA claims. While the system slowly began to work, the need to backdate claims by months and the automated nature of some of the features made it a target for both deliberate and unintentional fraud. By the end of the summer, delivering benefits had become more challenging and more complicated than I had ever seen.

Why OUC, Claimants, and the Public Need a Robust OUC Workforce

My history with the agency is only part of the story. The nature of work in unemployment is important. The millions of claims your constituents have filed are in the hands of:

- **Interviewers** (and Intermittent Interviewers) take claims, answer questions, detect issues, advise claimants on policy or law, direct claimants to answers online, and provide basic access to a claim. This job can be simple or complex. But it takes time to understand the unemployment law, the different features, and how to navigate the computer system(s).
- **Examiners** must collect information, establish facts and adjudicate claims to provide claimants with eligibility determinations. Much of this work includes tracking work and attempting to process claims as quickly as possible while providing due process.
- **Claims Supervisors** direct and mentor workers.
- **Operations Managers** manage workflow and monitor overall performance.
- **Staff Development Specialists** train new hires and track the training of all workers.
- **Employment Specialists** work on specific program areas like federal programs, initial claims, improper payments, monetary eligibility.
- **UC Tax Agents** investigate and issue determinations on missing wages.
- **UC Referees** hear appeals from both claimants and employers on contentious disagreements.
- **Clerical staff** across all offices process mail and email accounts, distribute documents, and process appeals.

Staffing sufficiently for all of these jobs is a fundamental necessity. *We were slowly hemorrhaging knowledgeable workers to retirement, promotion, or other employment opportunities before the funding crisis in 2016.* As these people left, what knowledge was captured was unevenly incorporated into computer systems and more rarely in training. And the training itself became less frequent, in part, because fewer new workers were hired post-2017 through the end of 2019, and, in part given the time constraints workers faced either working on the benefit modernization project or handling the overflow of claims from those working on the benefit modernization project.

It feels now like we never recovered from the problems of 2017. In June 2017, the agency had just shy of 750 full-time employees (excluding UC Tax Agents and UC Referees). This was after

the furloughs at the end of 2016. Yet, by December 2020, even after hiring more workers during the pandemic - the agency only had just over 850 full-time employees (excluding contractors and annuitants). In contrast, the agency had almost 1,200 workers in 2014 as the programs of the Great Recession were receding, as the Department reported to this body in June 2017 (in accordance with Act 1 of 2017). Just as the public experienced great difficulty in 2017 after the furloughs (PennLive, n.d.), the public is now experiencing horrible delays in accessing benefits even months into the pandemic (90.5 WESA, n.d.).

Today feels like 2017 because ***OUC never received enough funding to properly staff following the funding crisis of 2016.*** Back then, former Auditor-General Eugene DePasquale worked extensively with the Department and other stakeholders and issued an audit finding that, excluding an emergency \$15 million appropriation provided to the agency in April 2017, ***OUC needed \$159.5 million between 2017 and 2020 to restore staffing to pre-furlough levels. But just \$115 million was appropriated.*** And we have been operating on ***ever-diminishing levels of federal funding for years.***

Obviously, the effects are stark:

- Claimants are greatly delayed or obstructed from contacting UC Service Center staff due to the volume of calls, texts, and emails.
- Employers experience the same delay and confusion.
- Mutual aid groups have grown to simply share basic information between people. Legislative aides are overwhelmed with requests for contacts.
- And workers in the system are overworked, frustrated, and teetering on traumatized.

At one point, I had close to 100 cases during one week over the summer. That was becoming normal. Keeping the cases organized - some parts in hard copy - other parts electronic - was frazzling. Further, I had to work from my kitchen table as it was the space that was available when the pandemic hit. I didn't have time to set up a home office. I didn't have time to do that as the weeks went on. I have had a few days off here and there, but I have not taken more than three days off in over a year. And the worst part is I am conflicted about the stress I experience. Thousands of workers are out working face-to-face in essential services. I have the privilege to work from home and be safe while I do my part to help. But I am so tired, frustrated and empty at the end of every day that it hardly seems worth going on.

As a worker in the system, I am concerned that there are structural issues with the economy (and in specific sectors) that will take time to change. Once the vaccines for COVID-19 are widely distributed and more activity returns, there may be burnout among some workers (healthcare workers/social services workers/frontline services workers). And the jobs of restaurant workers, hospitality/entertainment workers, and transportation workers are at risk of growing slowly. This

means the possibility of continued friction exists, and, therefore, the need for unemployment claims and claims adjudication will continue to remain high. (Washington Post, n.d.)

I suggest being cautious about making excessive legislative changes that carve out more exceptions for specific classifications of workers. The more "exemptions" or "fixes" we put in place, the more rules we create for interviewers to learn and examiners to reference. Good examples of well-intentioned but problematic "fixes" from the past are the changes to financial eligibility in 2012, the severance pay legislation in 2012, and the modifications to overpayment recoupments a few years later. This continued as, during the pandemic, the complexity of the instruments in the federal CARES Act were overwhelming.

Perhaps most important of all, OUC needs *funding appropriated immediately to hire more workers.* Thinking back to the 2012 Philadelphia Unemployment Compensation Center closure, then-Labor Secretary Julia Hearthaway justified this move by noting that claims had dropped by 40.7 percent, as per a 2012 Philadelphia Inquirer article. While that may have been true, at the time, *Pennsylvania ranked 35th out of all 50 states in getting checks out in a timely fashion.* In other words, in 2012, the Commonwealth *ranked in the bottom 30 percent of getting checks into people's hands quickly and yet we fired OUC workers that year.*

Even as mass vaccinations occur and the economy starts to open up, *do not believe that you'll need less staff the minute a double-digit drop in claims occurs.* We faced prolonged unemployment in the wake of the Great Recession for years and needed to process claims with slowly diminishing staff levels. And just like the aftermath of the Great Recession, we are expected to feel the economic effects of this pandemic-induced recession for years (as per a recent Congressional Budget Office report).

So I wish to stress, *please do not approach this thinking you need more OUC staff for a year or two.* You need a significant influx of full-time workers that can successfully be onboarded and develop enough familiarity with the work to become an asset to the system. You need to hire enough workers to offset those workers who will leave shortly after starting when they realize how demanding the work is. And you need enough workers to operate and collaborate effectively together to navigate all of the complex and dynamic components of UC law.

Quarter-measures like temporary call centers won't cut it. Delays in your constituents receiving their checks will persist the longer it takes for Labor and Industry to be able to bring on the hundreds of additional staff members it needs. It will take them time to be hired, onboarded, and trained enough to process claims effectively. Every day it takes to be able to scale up the workforce, claimants will continue to face delays in receiving benefits. *Ironically, though the UC system is quite complex, this most robust solution is painfully simple.*

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I wish to commend the Committee and the House for passing House Bill 178 as it benefits all parties involved. Finally, I again thank the committee for the opportunity to provide a worker's perspective and encourage you to act with care and consider the future and the present.

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