

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



Report of UI Stakeholder Group Meetings Required by Public Law 2021 Chapter 456

Context: As a result of Public Law 2021 Chapter 456, the Department was required to convene a group of stakeholders to discuss a variety of topics that came up during the work sessions and public hearings on LDs 1564 and 1571. These meetings were a chance for the Department to bring together stakeholders from both the Employer and Worker Advocate communities to discuss aspects of the Maine Unemployment Insurance program. The group spent time discussing the following topics as required by the statute:

- A. Methods of connecting employers and unemployed workers following the pandemic related to coronavirus disease 2019;
- B. Processes and methods to improve the efficiency and effectiveness of the Worksharing plan established under Title 26, section 1198;
- C. A determination regarding whether the provisions of Title 26, section 1044 are working effectively to achieve the protection of rights and benefits goals;
- D. Methods to streamline and facilitate application for unemployment insurance benefits that will increase access for unemployed workers, simplify reporting requirements for employers and determine any clarifications or modifications that may be needed related to the submission of partial unemployment claim forms in accordance with Title 26, section 1194, subsection 1-A;
- E. How an employer liaison contract might be designed to provide assistance to the business community in interacting with the unemployment insurance program, focused on the goal of reducing administrative burden and improving user experience, including recommendations of a funding source to support such a contract;
- F. Whether unemployed individuals have completed reemployment services and eligibility assessment with the Department of Labor within the prior 5 years and whether these individuals should be considered to have good cause for not participating in reemployment services and eligibility assessment under Title 26, section 1192, subsections 2 and 13; and
- G. Any software or technology issues contributing to delays, claims processing issues and paperwork burden to businesses that may be resolved through technological means or any ways to promote improved claimant or employer user experience and interface with the unemployment insurance system.

The composition of the group was based on the former Unemployment Insurance Advisory Council, which was originally established in the mid-1960's to advise the Commissioner on issues related to

Unemployment Insurance. The Council met periodically through the 1990's and was sunsetted in early 2000's. The Council had equal representation from worker representatives and employer representatives. The Department mirrored that representation in the members of the stakeholder group. Membership included: five members who represent businesses and five members who represent workers. These meetings were broadcasted live on YouTube for members of the public to watch. The Department also created a webpage with copies of the presentations given and a comment box, so individuals who wanted to provide comments on the issues discussed had the option to. We also created an email address for comments to be sent directly.

Members of the Stakeholder Group included:

David Clough, NFIB

Dana Doran, Maine Professional Logging Contractors

Greg Dugal, Hospitality Maine

Ben Grant, McTeague Higbee

Peter Gore, Maine State Chamber of Commerce

Sue Hamlett, Maine Equal Justice

Destie Hohman Sprague, Maine Women's Lobby

Matt Marks, Associated General Contractors

Vinny O'Malley, Former Labor Representative for the Maine UI Commission

Curtis Picard, Retail Association of Maine

Claude Rwaganje, Prosperity Maine

Matt Schlobohm, Maine AFL-CIO

Summary of Each Meeting:

Agenda for September 29th Meeting of Unemployment Insurance Working Group

- Welcome
- Introductions
- Remote Meeting Policy – Discussion/Adoption
- Overview of Issues for the UI Working Group to Discuss
- Overview and Fundamentals of Unemployment Insurance
- Discuss Structure of Future Meetings
- Close

Synopsis of the discussion:

The Department lead by Commissioner Fortman welcomed the group and explained that the group would need to adopt a remote meeting policy to comply with state regulations. During this meeting, the Department gave a presentation to the group on the fundamentals and basics of the Unemployment Insurance program. Topics of discussion during this meeting included an explanation

of the federal UI administrative funding, the federal requirements for conformity overarching federal laws and state FUTA tax credits. Questions were raised about monetary eligibility requirements for receiving benefits and how it is determined for UI claimants. Members of the group also were interested in a presentation on the economic situation in Maine and the context of unemployment.

Agenda for October 20th Meeting of Unemployment Insurance Working Group

- Welcome
- Introductions
- What changes are being made or could be made to the Workshare program
- Changes to the RESEA program to increase participation
- How to connect employers with the unemployed post-pandemic
- Review effectiveness of Title 26 Sec. 1044
- Closing and Next steps

Synopsis of the discussion:

During this meeting, the Department provided four presentations on the above topics to provide a background for the discussions. Stakeholders were supportive of the Workshare program and its benefit to both workers and employers as well as supportive of the changes already made and the planned enhancements to streamline the administration of it for employers and reduce confusion causing errors and benefit payment delays. After the discussion on the RESEA program, members of the group asked many clarifying questions. Curtis Picard of the Retail Association of Maine asked if RESEA could integrate information about credentials and opportunities for claimants to expand their skill base. There was heavy interest in what obstacles exist that are keeping workers from going back to work. Members of the group seemed to agree that it would be good to provide outreach and education to employers on the requirement to tell workers about unemployment benefits. The Department committed to including this information in the UI Tax Rate notification to employers and explore expanded communication venues for employer outreach.

Agenda for November 17th Meeting of Unemployment Insurance Working Group

- Welcome
- Introductions
- 2022 UI Tax Schedule
- Facilitating and streamlining applications for Unemployment insurance pursuant to Title 26 Sec. 1194 Sub-sec. 1-A
- Creation of Employer Liaison program
- Review of UI technology and software
- Closing and Next steps

Synopsis of the discussion:

During this meeting the Department provided four short presentations on the above topics. The Department provided information about the new UI Tax schedule and discussed the statutory process that was used to determine the new rate. The Department provided an overview of the claim filing process for claimants as well as what is required of employers when claims are filed. There were questions about creating a focus group to get ideas from employers about how claim filing could be made easier. Worker advocates were curious about what options exist for employers to submit claims on behalf of their workers when they have reduced hours. The Department also presented on the services provided to employers by the Department as context for the discussion on creating an employer liaison. Participants seemed interested in solving concerns of employers through existing resources and staff. They noted it would be helpful to receive more information that is relevant to employers such as a monthly email to employers. Director Laura Boyett provided a presentation on software and technology improvements planned to improve access to the system.

Agenda for December 15th Meeting of Unemployment Insurance Working Group

- Welcome
- Introductions
- Presentation on Economic Situation by Mark McInerney, Director of the Center for Workforce Research and Information
- Overview of the claim filing process and review of resources
- Review of the ID.ME verification process
- Wrap-up
- Closing

Synopsis of the discussion:

The Department solicited topics from members of the group for the final meeting. Members were also encouraged to submit additional comments in writing after the meeting for consideration. Comments were received from both labor and business representatives in the Stakeholder group and are included as attachments to this report. A summary of the Stakeholder key shared concerns or suggestions with the agency's response follows.

Workshare Program: both the business and labor stakeholder representatives expressed support for the Maine Workshare program and recommended expanded flexibility of use. However, both groups also identified that it was currently very paper driven and labor intensive as well as administratively confusing which, during the height of the pandemic, caused errors to be made by both employers and workers resulting in delayed benefit payments and frustration.

Department Response: the department outlined the initial work taken as a result of meeting with Workshare employers to understand the problems encountered. These initial efforts included a revamped weekly claim spreadsheet and secure portal to upload it to the agency, implementation of robotic process automation ('BOT') functionality for processing the spreadsheets thus significantly

speeding up the processing of claims and freeing up staff to work with employers and claimants. Additional improvements are currently underway including:

- an online 'self-assessment tool' for employers to decide whether the Workshare program will 'fit' their specific needs,
- online application to sign up for Workshare,
- inquiry screen, data dashboards and reports for both program staff and employers to track workshare activity,
- revamped and improved informational materials for employers and workers on workshare – what it is, how it works, and
- short videos to explain Workshare and its processes.

Stakeholders also encouraged the Department to continue working with the U.S. Department of Labor to expand flexibility in the program. The Department has already had an initial meeting with the U.S. Department of Labor to promote the use of the Workshare program as a means to accelerate recovery after an economic downturn by allowing businesses to use Workshare to 'bring back' former employees laid off earlier than originally planned to gradually ramp up operations. The U.S. Department of Labor was able to approve using Workshare in recalling previously laid off workers of a business but could not expand this to new hires as this will take statutory changes at the congressional level. However, the Department supports expanded flexibility in some of the more federally prescribed aspects of the programs to make it applicable to a broader array of business models and industries and will continue to seek opportunities to promote these types of changes in federal law.

Education & Outreach: the need for more outreach to both employers and unemployed workers was a common theme during the Stakeholder meetings and in their comments.

- *For employers:*
 - More outreach & information to employers explaining the unemployment application process and procedures, especially around temporary layoffs, and work search requirements, to help in assisting their employees with their questions.
 - Increased education on employer responsibilities around notifying separating employees of potential unemployment benefit assistance,
 - Educating employers on Maine laws that prohibit discouraging an employee from applying for unemployment benefits or requiring an employee to waive their rights to unemployment as part of an employment contract (also prohibited by Federal law).

Department response: some of this is included in an insert in the annual UI tax rate notice to employers but could be expanded upon. Additionally, the Department is considering a quarterly newsletter to employers on specific unemployment topics, as well as information about services available to employers to help with staffing needs. Other possibilities include

additional topic specific online videos, zoom or other virtual webinars in partnership with business associations.

- *For unemployed workers:*
 - Make information available to individuals filing for unemployment benefits on other potential assistance and services such as SNAP, childcare, housing assistance and how to apply for them.
 - Easier to understand information around unemployment eligibility requirements and procedures.

Department response: the confirmation email that individuals receive when filing initial claims contains references to additional resources and can be expanded to include any listed above that may not be included, along with links to specific website information for further information. Additionally, the Department will reach out to the Department of Health and Human Resources to explore adding a link to filing for Unemployment Benefits to their website resource page for those seeking assistance along with basic eligibility information. Additional online videos are planned to help explain unemployment processes and claimant requirements for receiving benefits.

Improved Access & Navigation in Online ReEmployME Applications & Account Portals -

stakeholders from both the business and labor communities shared difficulties encountered by many of their constituents when trying to sign up for benefits or navigate applications, the unemployment website, claimant and employer account portals, or just understanding Department correspondence and forms.

Department Response: a unique and valuable opportunity presented itself during the pandemic with the sheer volume of individuals applying for unemployment, a large percentage of whom were accessing unemployment benefits for the very first time. While the architecture of the current benefit and unemployment tax production systems is powerful, stable, and can adapt more readily and faster than the prior legacy system to changes; based on the experience of some of the constituent groups the program serves, it also became very apparent that the customer interface aspects of the unemployment system did not provide the same ease of use to all customers trying to access unemployment services. In response, the Department committed to making changes to the public facing applications and program information to improve the customer experience. We are using a human-centered approach involving claimant surveys to identify pain points and prioritize changes to be made, interviews with individuals filing for benefits and involving them in proposed design feedback and testing. Using this approach, the Department re-engineered the weekly claim and work search form to make the questions easier to understand with improved helper text, and the application simpler to navigate. A confirmation email is now generated upon submitting an initial claim that outlines what to expect next from the agency, explains what the individual needs to do next and includes links to additional information and resources for assistance. Claim comments used

in the individual's account portal were rewritten to more clearly explain the status of an individual's claim.

Additionally, the Department started revamping all correspondence and forms for both individuals accessing benefit services and employers to make them clearer, easier to read and written in 'every day' language as opposed to technical program language. This is an ongoing process.

Further enhancements to the customer interface to improve the customer experience are underway or planned - first with the benefit services aspect of the program but fully intended to address the employer tax services interfaces as well. Current improvements under construction or planned in the coming couple of years include:

- Integrated Chatbot (text & voice including multiple languages) – being implemented in the website in 3 phases. Phase 1 in English starting with expanded FAQs, claim status and password reset assistance. It will incorporate a 'self-learning' key word search that will continually expand to adapt to a broader array of search words used. This is expected to go live in early February 2021. Phase 2 will expand the functionality to begin adopting additional languages and Voicebot technology and include Appeal information as well. Phase 3 will integrate the Voicebot with the claim service 1-800 phone line.
- Web Responsive Design – which will make all applications, online forms, automatically size to device used i.e. smart phone, tablet, laptop, or PC. Work in progress now.
- User Experience Reimagined – continuation of re-engineering of all customer facing online services (benefit services first but employer services planned) using human-centered design. Work already underway.
- Instructional/informational videos – additional short videos to help the visual learner understand unemployment procedures, requirements, processes – benefits and unemployment tax, initially in English but will incorporate multiple languages over time.
- Establishing a secure portal for non-citizens to easily upload any required work authorization documents needed to determine benefit eligibility and reduce benefit delays. This is in development.
- System Efficiencies – microservices, expanded use of Robotic Process Automation, increased use of data analytics and program dashboards to improve the efficiency and efficacy of program administration.

- Continued evolution of system security and protections against fraud and identity theft.

Equitable Access Initiatives: improving and ensuring equitable access for all individuals and employers seeking agency services to is a major goal of the Department of Labor. Many of the planned program and system enhancements outlined above will improve access to specific groups of individuals that have experienced difficulties trying to access benefit services especially as the customer facing applications are streamlined, simplified, and the wording used converted to plain language versus technical program ‘speak’. The including of additional languages in the Chatbox and video features will help improve access and making applications fully accessible on a smartphone will help address situations where individuals may not have ready access to computers. In addition, the Bureau of Unemployment Compensation is partnering with the Office of Data Evaluation at the U.S. Department of Labor in a 1 to 2 year Equity and Access research initiative to help identify any patterns using Maine claim data indicating that specific groups of individuals may be having difficulties accessing unemployment benefits at a greater rate than other groups. This work may also assist with identifying reasons adversely affecting the Reciprocity rate in Maine.

Closing Summary

The UI Stakeholder group met a total of 4 times between September and December 2021 to discuss the Maine Unemployment Insurance Program topics as outlined in Public Law 2021, Chapter 456. Comments, suggestions, and concerns were raised and discussed, and information provided by the Department regarding actions taken or planned to continually improve the program and enhance the customer experience and ease of access for both individuals and employers. The Department is not submitting any legislative recommendations at this time but instead focusing on carrying out the planned actions identified in this report that will address many of the priorities and pressing customer needs identified. Ongoing communication between the Department and Stakeholders is important as the Department strives to continually improve the Unemployment Insurance Program service delivery and meet the ever-changing needs of its constituency.

Appendix A: Email from Hospitality Maine (Greg Dugal) regarding MDOL Workshare program

From: Greg Dugal <Greg@HospitalityMaine.com>

Sent: Tuesday, October 19, 2021 3:33 PM

To: Gingras, Isaac H <Isaac.H.Gingras@maine.gov>

Subject: Meeting Tomorrow

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Not sure where this should go so I am sending to you, these are comments about workshare

1. Received several responses about the part time nature of our industry by choice and the inability to have workshare for part time staff members- example- Server works 20 hours by choice, but due to pandemic reductions in business, she is only able to get 10 hours, it would be great if that person could be part of a workshare program.
2. An actual response and representative of the group of respondents-

I looked into this pre pandemic. I recall it was not well suited for the restaurant industry that employs many part time workers. The program requires that it:

- Affect a unit of the business that normally works on a full-time basis.

As you know, we employ lots of part time servers, bussers, cooks, dishwashers, etc..

3. Seasonal employees. I know this one is a bit tougher, but had several responses on the ability to keep seasonal employees engaged in businesses that are seasonal in business levels but open year round (full time in summer and part time in off-season.) Not sure how this would be done
4. Educational purposes- One of our members who believes strongly in educating hospitality workforce believes that educational time should be counted as the work requirement to receive unemployment as part of a work share program. Again not sure how and if it could be done but it was suggested.

Talk to you tomorrow

Greg Dugal
HospitalityMaine
45 Melville Street

Appendix B: Comments from Professional Logging Contractors of Maine

To Whom It May Concern,

On behalf of the membership of the Professional Logging Contractors of Maine (PLC), I am writing to provide comments regarding the work of the UI Stakeholders Group, which was created by Public Law 2021, Ch. 456, "An Act To Amend the Laws Governing Unemployment Compensation,". The PLC was invited to participate as a stakeholder on the group but would like to provide further comments to be included in the public record for consideration in the final report that is presented to the Maine Legislature.

For background, the PLC is a trade association that represents logging and associated trucking contractors throughout the state of Maine. The PLC was formed in 1995 to give independent contractors a voice in a rapidly changing forest industry. As of 2017, logging and trucking contractors in Maine employed over 3,900 people directly and were indirectly responsible for the creation of an additional 5,400 jobs. This employment and the investments that contractors make contributed \$620 million to the state's economy. The PLC membership, which includes 200 contractor members and an additional 100 associate members, employs over half of the individuals who work in this industry and is also responsible for 80% of Maine's annual timber harvest.

The PLC's comments here will pertain to the highlighted areas of responsibility (below) of the stakeholder group as identified in public law:

- D. Methods to streamline and facilitate application for unemployment insurance benefits that will increase access for unemployed workers, simplify reporting requirements for employers and determine any clarifications or modifications that may be needed related to the submission of partial unemployment claim forms in accordance with Title 26, section 1194, subsection 1-A;
- E. How an employer liaison contract might be designed to provide assistance to the business community in interacting with the unemployment insurance program, focused on the goal of reducing administrative burden and improving user experience, including recommendations of a funding source to support such a contract;
- F. Whether unemployed individuals have completed reemployment services and eligibility assessment with the Department of Labor within the prior 5 years and whether these individuals should be considered to have good cause for not participating in reemployment services and eligibility assessment under Title 26, section 1192, subsections 2 and 13; and
- G. Any software or technology issues contributing to delays, claims processing issues and paperwork burden to businesses that may be resolved through technological means or any ways to promote improved claimant or employer user experience and interface with the unemployment insurance system.

In response Section D. and Section G above, the PLC surveyed its membership to solicit their feedback as small businesses and on behalf of their employees with respect to the UI system. The following is a summary of the survey as well as the responses:

1. 200 small businesses were surveyed, and the PLC received 40 responses.
2. Respondents were from Avon, Bowerbank, Fort Kent, Hancock, Harmony, Hermon, Jackman, Jay, Lee, Livermore, Lowell, Madawaska, Mexico, Milford, Millinocket, Naples, Old Town, Poland, Portage, Porter, Saint David, Smithfield, Smyrna Mills, South china, Wallagrass, Waltham and Weston. Several responses came from businesses that operated in the same community as another.
3. Questions posed on the survey were as follows: a) Do your employees have difficulty applying for unemployment during mud season; b) If yes, what are the problems they face; c) Does your company have difficulties verifying employment with the Maine Dept. of Labor?; d) If yes, please describe the problems you have; e) Have your employees encountered challenges with the work search requirement and the six week work search waiver provided to job attached employees; f) If yes, what are the challenges; g) Are there other parts of the unemployment system that do not work well for your company and if so, what are your recommendations for change?
4. Date on respondents and sample responses to each question are provided here:

Question A – 60% of respondents said yes, their employees have difficulty applying for unemployment during mud season

Question B – if they said yes to Question A, respondents provided the following responses:

- The whole sign up then the long delay before benefits...we pay in and it's hard to get any back
- They went 6 weeks without pay
- Nobody answers telephone
- Work search when there is no work available in the woods.
- It is extremely difficult for them to file for benefits, there are always problems with the unemployment office. They kick back applications, and it can take several days and hours of trying to get through to them.
- Not being able to login or more so talk to a person directly
- Takes time to get their first check and wait a lot to talk to someone
- Starting a claim (new or continued of previous year) and work search
- Reapplying same answers every year for the same reasons when their gonna come back to work for same employer
- Need in person support again in offices at close proximity and when making a phone call having someone at the other end at that moment to answer the necessary questions...no leaving messages not knowing when the call will be returned.
- Trying to contact someone in the unemployment office
- If they have to call I believe that there are sometimes long wait times

- They need to have someone to talk to.
- Long waits and seems things get delayed on the states side
- Getting kicked out of the system
- Calling unemployment no answer or short time. Unable to get the online system to work due to lack of technology
- having to prove identity has been a big problem for some, takes weeks at times to get it straightened out. Most of these guys live week to week and missing weeks makes it very difficult. I have some that have weeks they never got paid for.
- Problems with the technology being used to apply for benefits. Big problems with their website and bigger problems having to use i-phones etc. to prove to the Dept. of Labor their identity.
- Unemployment department hard to get a hold of due to small hours of phone operations

Question C – Only 10% of respondents stated that they had challenges verifying employment

Question D – Those who did respond yes to Question C stated the following, “I called them, I emailed everything to them several times and they still took 6 weeks to give them anything,” “Unemployment often asks for the same verification multiple times even though we have to respond in the electronic SIDES system.”

Question E – 60% of respondents said yes, their employees have encountered challenges with the work search requirement and waiver process.

Question F – If they said yes to Question E, respondents provided the following responses:

- They told them we would be going back in the woods when allowed, but, still had to go around and look for work
- Confusion over rules
- Can’t use the same employers for work search, even though they are going back to work.
- Knowing when, or if they should. It is my understanding that for six weeks employees do not have to file a work search requirement if a return date has been set at the end of the six weeks. Anything beyond those six weeks a work search is required. The only way around this is if the employee or employer call and are granted a waiver for beyond those six weeks.
- A few never got their checks when calling they were told they had to look for work. They would tell them they were exempt it would get corrected they were told and following week no check again. They would have to make calls back to get it resolved
- No option for a green slip week
- No work in our field of employment at that time of year

Question G – Are there other parts of the unemployment system that do not work well for your company.....? Here is a sample of the responses:

- they maybe should be quicker about paying people after they are sent all the paperwork
- Not all employees use computers, add more state workers to answer phones
- When we are told we don’t need to do a work search for a few weeks. Then they refuse to pay you because you didn’t do a work search. They know you have a call back. But still

gives you a hard time.

- It should not be so hard to talk with someone who is knowledgeable about my employees claims.
- Yes, employers are not able to get logged in in order to help our laid off employees
- Accessibility!!!
- Many! Need more knowledgeable personnel for sure. Application has too many questions. Stop writing questions that are confusing, not clear and tricky. This is unnecessary for applying for unemployment. Stop changing the wording of the questions every other week to confuse us even more. Excessive security tactics that's too much! Hard working punctual dependable flexible self-taught loggers shouldn't be put in the same basket as someone that wants to commit fraud!!
- Can't get through to call center.
- They need to totally abandon their reemployment website with is NOT very user friendly and design something that actually is easy to understand and use. Most of our employees are not computer or i-phone savy. Perhaps more boots on the ground with more help available at multiple locations (maybe on a rotating schedule) would help. Using what they have now is challenging, exasperating - even if you are computer and i-phone literate. Maybe time for a change at the top as well as things are not working well.
- Employees who have gone to work for someone else and then claim unemployment, at times it has been charged back to me and I disagree with how that is done. We are also asked to verify workers employment dates multiple times.

With respect to Section E. above, “How an employer liaison contract might be designed to provide assistance to the business community in interacting with the unemployment insurance program, focused on the goal of reducing administrative burden and improving user experience, including recommendations of a funding source to support such a contract,”, the PLC is in opposition to having an employer liaison at the Maine Dept. of Labor for the time being. It will add further cost to the employers to fund such a position and may/may not have positive benefits for the employers in the state.

With respect to section F. above, “Whether unemployed individuals have completed reemployment services and eligibility assessment with the Department of Labor within the prior 5 years and whether these individuals should be considered to have good cause for not participating in reemployment services and eligibility assessment under Title 26, section 1192, subsections 2 and 13; the PLC and its members were strong supporters of having this provision included in law in 2018. For unemployed individuals who are job attached and return to the same position year after year, it is not necessary to have those employees participate in reemployment services more than once every five years. If the employee was not job attached, then certainly, gaining the assistance of reemployment services such as training might be warranted, but not for an individual who has been laid off due to no fault of their own and the fact that they will return to their employer following the seasonal layoff.

Thank you for the opportunity to provide comments on this stakeholder process. If you have any questions regarding our comments or if I can provide any further information, please do not hesitate to contact me.

Best,

Dana

Dana Doran
Executive Director
Professional Logging Contractors of Maine

Appendix C: Comments from Maine Equal Justice

MEMO TO: Commissioner Laura Fortman, Maine Department of Labor

FROM: Christine Hastedt and Sue Hamlett, Maine Equal Justice

DATED: December 27, 2021

RE: Issues raised during Unemployment Insurance Stakeholder Group meetings

Thank you for the opportunity to restate and clarify] issues raised by Sue Hamlett on behalf of Maine Equal Justice and the unemployed workers with low income that we represent during the Unemployment Insurance Stakeholders Group convened pursuant to PL 2021, Chapter 456. Will you please post this memo on the Department's UI Stakeholder website so that it may be share with other members and any other interested persons.

- 1. Improvements to Maine's Workshare Program.** We strongly support the UI Workshare Program, and appreciate the work that MDOL is doing to enhance this program. We are intrigued by the suggestion made by employer members of the stakeholder group to expand opportunities for the program to be used to support workers in approved training programs. We note that federal law may open the door to this possibility at 26 USC §3306(v)(6):

“(6) eligible [employees](#) may participate, as appropriate, in training (including [employer](#)-sponsored training or worker training funded under the Workforce Innovation and Opportunity Act) to enhance job skills if such program has been approved by the [State agency](#);...”

We understand that adding such a provision to Maine's Workshare plan will require further conversation and approval by USDOL, however, we urge the Department to explore this promising opportunity to both increase employee's skill levels bringing the prospect of higher wages, and better meet employer's needs.

Given the significant support for this program by both workers and employers, and a renewed interest by the federal agency, we anticipate that there may be more flexibility in the law governing this program over the next few years. We urge you to monitor any changes carefully to see if they align with other suggestions from the Working Group, including increased access for part-time workers generally, and opportunities to modify eligibility requirements so that the program may be more readily available to new entrants to the labor force or low wage workers who might otherwise be excluded as a result of current monetary eligibility requirements.

- 2. Clarification of recall date for purposes of exemption from the Reemployment Services and Eligibility Assessment (RESEA) program.** We appreciate the changes made by the Department to the RESEA Program to accommodate claimants by providing for on-line and telephonic participation along with flexible rescheduling opportunity. We also appreciate the issue raised by some employer representatives related to persons exempt from this requirement who are subject to recall and thus exempt from the UI work search requirement for a certain period.

The problem described involves the inability to designate a specific recall date for workers in certain industries necessary for those workers (e.g. mud season for loggers) to be considered exempt from the work search requirement, and, by extension, the RESEA requirement. The sense of the discussion was that this problem could be mitigated by establishing a reasonable recall date mutually agreed upon by the industry and the Department with the understanding that it may be extended if conditions warrant, and automatically applying that date (along with any extensions) to applications from workers in that industry. This would eliminate the uncertainty faced by workers who are not able to accurately respond to the recall date question on the application, and thus lose the opportunity for a waiver even though they fully intend to return to work with that employer when the business is able to reopen. Maine law gives the Department the flexibility to adopt this, or similar, resolution to this problem that creates perennial problems for workers, employers and the Department.

- 3. Improve connections between employers with the unemployed.** As Sue noted during the discussion of this issue, one of the things we have found most helpful for unemployed workers who reach out to us, is identifying supports like SNAP, child care, housing assistance, MaineCare, etc., that may help them meet basic needs while they are out of work. Equally important is helping them understand how earnings impact benefits from these programs. In many cases they may be able to maintain assistance from these programs when they become reemployed, yet many assume they will not. The fear of losing a critical support, like Medicaid, often creates uncertainty about whether they will be better off, or not, by accepting a certain job. If they know that they will be able to keep their health care once reemployed that barrier would be removed. If not, they would be able to reassess and begin seeking employment opportunities that offer that benefit.

For many years we have encouraged MDOL to provide greater assistance to help unemployed persons identify and apply for services and supports that will help them meet their basic needs, and thus be able to engage more successfully in reemployment or training efforts. It would also be beneficial to provide materials that will explain how wages effect eligibility for certain key benefits like MaineCare, SNAP and TANF. These benefits are frequently available to low-wage workers, yet that fact is not well understood. As you are aware, the Department

of Health and Human Services is working to design a dashboard (operating name for now) to help people understand the impact of wages on benefits. This would be a useful tool for both DOL and employers as they work to ensure that claimants have the information that they need regarding how the combination of wages and benefits may assist individuals in making ends meet as they enter the workforce. We urge MDOL to more effectively utilize this and other tools to help workers better understand what additional help may be available and how employment may impact these benefits and the combination of wages and benefits may affect their economic security.

4. **Recommendations to improve the effectiveness of 26 MRSA §1044.** As Sue noted during the discussion of this issue, we are concerned that the protections established at §1044 are not effectively communicated to either employers and employees. We were deeply concerned by the number of respondents to the survey that we jointly administered with the AFL-CIO this spring indicating that they felt discouraged from applying for unemployment compensation by their employer. While we did not have the capacity to do a thorough quantitative analysis of this issue, we did speak to several respondents to learn what form that discouragement took. The two most prevalent responses were that interactions with their employer led them to believe that they: (1) would not be rehired if they made a claim for UI, or (2) that their employer advised them that they would not be eligible for benefits because they had either quit or were fired leading them to believe that it would be fruitless to apply for UI. Both of these actions undermine the protections established by §1044.

While we do not want to imply that large numbers of employers are bad actors, behaving in a such a manner as to intentionally discourage workers from applying for UI benefits, our experience indicates that discouragement does occur, and when it does it is a serious violation resulting in the loss of benefits for which the worker may be eligible, and, thus, must be addressed in a serious manner. Given that, we ask that MDOL take the following steps to ensure that claimants are ensured the protections intended by law:

- a. **Clear notice.** Amend the current notice to employees to make clear that employers must not discourage employees from applying for UI in any way, including specific examples of prohibited behavior. For example, the notice should make clear that an application is the best way to determine eligibility and employers should neither discourage an employer from making an application, or offer an opinion as to whether or not the employee will be eligible for benefits.
- b. **Educational campaign.** As recommended by several stakeholder members, including employer representatives, implement an educational initiative to help employers

understand that this behavior is prohibited, including using specific examples of prohibited behavior.

- c. **Establish a complaint procedure.** As far as we can tell, there is no clear procedure for an employee to make a complaint to the Department when they believe they have been discouraged from applying for benefits or experienced any other violation of §1044. We urge the Department to establish a complaint procedure, including a form by which an employee can report such violations to the Department and make that information readily accessible to all Maine workers.

- d. **Relief.** Provide an opportunity to apply for benefits retroactively to any employee who the Department determines was discouraged from making a timely application for benefits in violation of 26 MRSA §1044.

5. Methods to streamline and facilitate applications for unemployment insurance that will increase access for unemployed workers, including any modifications that may be needed related to the submission of partial unemployment claims forms in accordance with 26 MRSA §1194 sub-§1 and sub-§1-A. We raised four issues related to this charge during the stakeholder proceedings which we reiterate here:

- a. **Improve accessibility of notice of rights pursuant to §1194 sub-§1.** Given the stakeholder discussion of this provision (and our own experience working with claimants), we believe it is important to clarify that this section of statute requires that each employee must be given a copy of the printed statement of the rules related to claims for UI benefits at the time that individual becomes unemployed. This provision is mandatory and does not apply only when an employee asks for a copy of the rules. Moreover, this printed statement must be supplied by the Department to each employer without cost to the employer. It became clear during this discussion that this statement is not provided in many cases. While some employer representatives posited that nearly everyone knows about unemployment benefits, the reciprocity rate in Maine and throughout the nation belies that assumption. Therefore, we ask the Department to take seriously the need to improve the effectiveness of this provision to be sure that all unemployed workers know that they have the right to apply for this important benefit.

- b. **Clarify the purpose of §1194 sub-§1-A; improve implementation.** Based on the discussion, we are also concerned that there may be a misunderstanding of the

requirements of §1994 sub-§1-A. This sub-section requires that an employer issue a properly completed partial unemployment claim form in two distinctly different circumstances: (1) when an employee who is customarily employed full time is given less than full-time hours during *a week* due to lack of work (emphasis added); or (2) when an employee who is customarily employed full time is given no work *for one week* due to lack of work and who is not separated from that employer (emphasis added).

In the first case, that of the employee given less than full time work, there is no limitation on the number of weeks for which the reduction in hours must trigger completion of a partial claim form by the employer. This is made clear by the use of the words “during a week” when hours are reduced to part time, as compared to the language applying to situations in which the employee is given no work where the duty to file a partial claim is limited to “one week” (although the statute permits the Department to require it be done for more than one-week). Clearly the statute establishes a duty for the employer to file a partial claim for each and any week during which full time hours are reduced to part time, as compared to the one week in which there is no work available to the employee.

It was not clear to us from the stakeholder discussion that the Department is reading this statute to require that employers’ file a partial unemployment claim form for *all* weeks in which and employees’ hours have been reduced from full to part time. Moreover, it is not at all clear that either of these provisions is being effectively enforced at this time.

As part time work becomes a more prominent feature of today’s workforce, and since we have found that part time workers often do not realize that they are eligible for unemployment benefits, we believe that it is essential to ensure that this provision is adequately communicated to help people understand that they may be eligible for partial benefits, and that it is effectively enforced.

- c. **Establish a pre-test for UI benefits on the DHHS My Maine Connection platform to facilitate access to UI.** We reiterate our strong recommendation made during the stakeholder process and many times in the past, that MDOL work with Maine DHHS to create a pre-test for UI eligibility accessible on the DHHS My Maine Connection platform. There is now considerable literature showing that low wage workers are among those least likely to know that they are eligible for UI benefits and apply for them. Since many of these low wage workers turn to DHHS for help with food and

medical assistance, providing these workers with information about UI at the time they apply for other benefits would help to facilitate their knowledge of, and application for, the UI Program helping to increase the reciprocity rate. Currently DHHS prescreens eligibility for WIC and the EITC on My Maine Connection. If it appears that they may be eligible for one of these programs, they are then electronically referred to that program to complete an application.

https://apps1.web.maine.gov/benefits/prescreen/getting_started/step1.html?

Just to provide a sense of volume, there are currently 92,500 families (162,000 individuals) receiving SNAP benefits, and 374,090 individuals receiving MaineCare or MSP. While not all of these individuals would qualify for UI, this provides a snapshot of the number of people with low income with whom DHHS interacts.

- d. Equitable Access to UI.** There is increasing recognition that while workers of color are more likely to be unemployed, they are less likely than others to receive unemployment benefits. Recently USDOL has offered a grant opportunity to states to, among other things, improve equity in the delivery of UI benefits.

During the UI Working Group deliberations Claude Rwaganje made an important recommendation, supported by Sue Hamlett, that would both increase access to UI benefits for immigrant workers, as well as improve benefit promptness for those workers. This issue relates to delays in verification through the USCIS SAVE system. Claude has been raising this issue for more than a year now, and we have also worked with claimants experiencing this problem and brought it to your attention. Because of the complexity of this issue, and the need to resolve it to ensure access and the prompt delivery of benefits for some of the most vulnerable claimants, we strongly urge MDOL to immediately convene a working group with a date certain for resolving this issue. This working group should include Department employees, representatives of the immigrant community and advocates working with claimants experiencing these difficulties and conduct listening sessions with impacted individuals to better understand this problem. The working group should consider, among other things, how requests for verification can be expedited, whether benefits may legally be withheld pending verification through the SAVE system, and how the “when due” provisions of UI law can most effectively be implemented for this population.

Thank you very much for the opportunity to provide further clarification of the issues raised by Sue Hamlett during the UI Stakeholder group deliberations. We look forward to your report, and response to these comments.