

June 11, 2020

Governor Gretchen Whitmer
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Governor Gretchen Whitmer,

We represent most of the UI Claimant Advocates in Michigan who have been supporting and representing UI claimants for years. We have been experiencing the many UI issues of this great state, and they have greatly exacerbated over the last decade. Our services are needed more than ever as thousands of Michiganders currently seek unemployment insurance benefits as a result of being displaced from the workforce due to COVID-19. We continue to respond daily to the needs of people struggling to navigate the unemployment system.

We saw State Representative Luke Meerman's June 4, 2020 opinion letter. The opinion letter's demand is misplaced, as the issues it raises with unemployment in Michigan lay in the current statute and the MiDAS computer system.

These issues have existed long before the pandemic, and this group has been successfully fighting for claimants and to improve the system for years. While the June 4, 2020 opinion letter outlines feelings about the Unemployment Insurance Agency, we write to provide the facts, context, and procedural history demonstrating how the issues with Michigan's UI system are wholly unrelated to the UIA leadership team. In fact, removing the current UIA leadership team would result in significant steps backward and halt meaningful work that the team is currently developing. The opinion letter's request for a "replacement of the UIA leadership team" is unsubstantiated based on the issues we see on the ground. Replacement is unequivocally *not* the answer to Michigan's UI issues. Rather, the state's focus should be in revamping the UI system and reviewing the critical portions of the statute. The current UIA leadership team knows and understands the state's UI issues and has been concentrating on revamping the system from both a technical and practical standpoint since taking their positions just one year ago, while also providing a rapid response to COVID, as further explained below.

By way of procedural history, unemployment insurance was originally instituted as part of the Federal New Deal in 1935 to be an economic revitalization tool to help people in need due to involuntary job loss. Recently, this tool was weakened by Michigan's statutory language, amendments inconsistent to the statute's overall purpose, and a flawed technical platform designed to automatically deny benefits.

Over the last decade, Michigan has reduced access to benefits by these changes to the law and implementing faulty computer programming. First, following the Great Recession, Michigan

[implemented harsh cuts](#) to its UI system.¹ Data shows these statutory changes led to a sharp reduction in the reciprocity rate for Michigan’s jobless workers.² Today, Michigan has one of the worst UI reciprocity rates in the country.³

At the Joint Select Committee for COVID-19 Response, many constituents testified about the hurdles they faced in receiving unemployment benefits. However, upon review of their testimony, the reason that many of these people are not receiving benefits is due to the current language of the statute. One person experienced trouble being approved for benefits due to retiring from an earlier employer in his base period. However, this particular issue is directly related to the interpretation of the statute’s voluntary quit provision. As the statute is currently written, this person’s “quit” is considered a disqualifying quit despite the fact that the quit did not directly cause the person’s current unemployment. Other people testified about not receiving benefits because of pensions, being a part-time worker, having insufficient working history, being low-wage workers, having an outstanding “non-monetary issue” or “additional claim required,” and the list goes on. Yet, these people are not entitled to UI benefits **due to the statute** – not because of anything that the UIA leadership team *is* or *is not* doing. Statutory issues require statutory solutions by the Legislature.

Significantly, notifications like “non-monetary issue,” “additional claim required,” and “stop payment indicator” are part of the state’s flawed programming from 2013 that was meant to flag possible issues and halt benefits. This computer program, called MiDAS, supposedly implemented codes for Michigan’s restrictive statute. However, the programmers over calibrated these computer flags, which continue to erroneously deny benefits to Michigan’s workers since 2013. Now, the pandemic’s sheer number of people trying to obtain benefits is finally holding a magnifying glass to MiDAS’s faulty programming.

The MiDAS system was implemented in 2013 by the previous Governor and created in the state’s “False Fraud Scandal.” As a result of fraud over policing between 2013 and 2015, MiDAS was responsible for one of the biggest UI failures in history. In that short time, the system managed to incorrectly flag at least 37,000 workers for fraud – at a 93% error rate. Jobless workers who did nothing wrong had to pay back every dollar of benefits they received along with a 400% penalty plus interest. If a claimant received \$10,000 in benefits, they would owe the state over \$50,000 all because they were wrongfully flagged by MiDAS. Your Administration has inherited multiple lawsuits stemming from the infamous “*MiDAS touch*.” (See *Bauserman, Cahoo, and Zynda*).

¹ Some of these changes included:

- Adding more eligibility requirements (i.e., red tape) and disqualification provisions (*Because of these changes to the law, we see how many people the current law cuts out by how the Agency currently denies benefits now during the pandemic*)
- Restricting the number of weeks that a jobless worker can receive benefits from 26 to 20 weeks which, beyond limiting the resources available to jobless workers, also costs Michigan millions of dollars in eligibility for federal funding
- Codifying a false belief in rampant fraud into law

https://www.washingtonpost.com/business/economy/states-weigh-reductions-in-benefits-for-unemployed-rising-costs-cited/2011/03/24/ABxB18RB_story.html

² Source: Department of Labor, table UI Data Summary. 1990-2019 Q3.

³ The reciprocity rate measures what percentage of jobless workers are able to receive unemployment benefits. Prior to these changes, Michigan was in the mid-range for unemployment reciprocity for Midwestern states. Today, as a result of these amendments, Michigan has one of the worst reciprocity rates in the country.

The UIA has failed to provide any data or review of the MiDAS system, apart from the Agency's own admission of a 93% determination error rate for fraud, to the public. Even worse, the MiDAS system is not set up to allow for any claimant or employer errors. In fact, MiDAS caused a sharp increase in erroneous denials. Since MiDAS was implemented, claimants making errors that wrongfully denied them benefits rose from 11.62% in 2012 to 81.07% in 2017. And even beyond this, the system sends out incomprehensible messages to claimants, and most of them can only be resolved if a claimant calls into the UIA. Between the system being difficult to navigate to a dramatic increase in the total number of erroneous denials, we see how MiDAS works against the people of Michigan.

While your Administration did not develop and implement MiDAS, your Administration *does* have the power to review it, publish how it was programmed, fix incorrect flags, and improve the user-interface for both employers and workers of Michigan. From our own interactions with the current UIA leadership team, we know they are already developing solutions to combat these well-known issues.

The June 4, 2020 opinion letter does not consider Michigan's UI laws, the issues with MiDAS since 2013, or the impact of COVID-19. As Claimant Advocates, we recognize that the UIA is federally funded based on previous unemployment rates. Last year, the UIA processed about 300,000 claims with around 630 staff members. Due to COVID-19, the UIA was forced, overnight, to suddenly process around 300,000 claims a week for many consecutive weeks with the same number of staff while also trying to quickly train hundreds more. The UIA leadership team responded to COVID-19 immediately, and their actions placed Michigan as one of the top states in the country for its UI response. The June 4, 2020 opinion letter requests UIA leadership that is "willing to help the people of the great state of Michigan." Respectfully, Michigan already has its best claimant advocate at the helm of the UIA system, Director Steve Gray.

Director Gray has spent his career advocating for UI claimants. For instance, he founded a claimant advocate nonprofit around a decade ago, which continues to represent thousands of Michigan workers today. Through his deep knowledge of the UI system and technological skills, Mr. Gray was one of the first people to alert the Department of Labor to MiDAS's false fraud adjudications. His letter resulted in new federal guidelines that explicitly condemned robo-fraud adjudications across the country. He remained a vocal critic of the UIA and was a part of the 2016 UI Working Group initiated by former state Representatives (now Senators) Roger Victory and Ed McBroom, and led by Rep. Kevin Hertel and former Rep. Joe Graves. This working group produced a bipartisan, eight-bill UI reform package that passed both houses with near unanimous support. Part of this package included strengthening the identity verification requirements so that the UIA could better protect the state against imposter claims. Years ago, Mr. Gray exposed the UIA's previous False Fraud Scandal. Now, his knowledge of the UIA's and MiDAS's issues makes him the ideal person to oversee the UIA, especially as every UI agency across the country deals with the recently reported imposter claims.

The current UIA leadership team is devoted to enhancing the dire circumstances faced by jobless workers, which is made clear when comparing Michigan’s recent UI performance to nearly every other state. Michigan has been a national leader in its response to COVID-19. While Michigan still has claimants who have yet to receive benefits, Michigan is actually well ahead of most of the country. Michigan is 5th in the United States in speedily processing initial claims, 2nd in resolving open issues, and 3rd in paying out benefits. Further, Michigan is one of the first states to incorporate and dispense federal pandemic benefits. Many states still have not fully implemented the federal programs. Michigan was the 4th state to pay out the additional \$600 in federal benefits and the 3rd to pay independent contractors.

Director Gray shares a vision of building and strengthening Michigan’s public institutions. The team’s tireless efforts in the midst of a global pandemic should be acknowledged and praised, not the subject for arbitrary removal. We have witnessed the UIA leadership team respond swiftly and strategically to the overnight demand on the system. Removing the UIA leadership team would only throw the system into further upheaval and chaos. The way the statute is written creates a barrier to many of their constituents and our clients. If these issues are not addressed and the programming of MiDAS is not updated, the outcomes generated by MiDAS will not change. We all would like to see a better system for Michigan.

Respectfully,

The Great State of Michigan’s Claimant Advocates

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