

**Joint Hearing of the Senate Labor and Industry Committee
And the House Labor and Industry Committee
On the Unemployment Compensation Call Center Issue
January 29, 2013**

**Written Testimony of Sharon M. Dietrich, Managing Attorney
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Good morning, members of the Senate and House Labor and Industry Committees. My name is Sharon Dietrich. I am the Managing Attorney for Employment and Public Benefits with Community Legal Services (CLS), which represents thousands of unemployed Philadelphians every year. I have been asked to provide written testimony to supplement that which I gave to the Democratic Policy Committee on October 23, 2012, about my understanding of the problems that have caused the severe dysfunction of the UC Service Centers (the UCSCs) and to propose solutions. I do so on behalf of CLS's clients, and I thank the Committees for their attention to this serious issue.

In this supplemental testimony, I will address four topics: (1) the current, still inadequate state of operations of the UCSC system that prevents callers, especially those using cell phones, from getting through in a reasonable period of time; (2) the need to define the primary goal (i.e., when is the system "fixed"?); (3) the need for additional administrative funding for adequate staff; and (4) other needed solutions.

I make six primary recommendations, as explained more fully in my testimony.

#1: The Department should continue to seek a solution to the technical problem encountered by cell phone callers.

#2: The Department's goal should be for callers to get through to the UCSCs for any legitimate reason with short, if any, wait times.

#3: The General Assembly and the Department should inform Pennsylvania's Congressional delegation and the Secretary of the U.S. Department of Labor of the need to increase federal administration funding appropriations for the UC program.

#4: Pending Congressional action to appropriate more adequate federal administrative funds, the General Assembly should re-designate employee tax revenues as additional administrative funding, such as by passing House Bill 26.

#5: Better communications with the unemployed about alternative ways of getting through to the UCSCs are needed.

#6: The Department should liberally provide relief such as backdating to unemployed workers who are harmed by not being able to get through to the UCSC.

I. UC Claimants Still Can't Get Through to Speak with UCSC Staff

Last week, I joined other advocates for the unemployed in meeting with Secretary Hearthway and other high ranking officials of the PA Department of Labor and Industry (the Department) to discuss the status of the operational problems with the UCSCs. I commend the Department for their willingness to meet with us and their hard work to try to resolve this problem.

Secretary Hearthway related to us that the Department believes that they have improved the operations of the UCSCs through technological and administrative enhancements, but that they will have a better assessment in a few weeks, after January's traditionally heavy claims period is over. Fortunately, the timing will correspond with your budget hearings, which will give you an opportunity to see whether in fact the hoped-for improvement has occurred.

We certainly hope that improvement is seen in the near future. But I can tell you that from our clients' perspective at this moment, getting through to the UCSCs remains a crapshoot. Busy signals still abound, and hours of calling are needed.

Callers face hours of busy signals before they even get into a queue to be on hold. The Department can measure the number of busy signals and the average hold time for the state's claimants. But these measures do not capture the entire experience of trying to call for hours on end. So as we have in the past, CLS assigned one of our paralegals to monitoring the combination of busy signals and wait times during the week of January 14th. Her results are attached. Although she once got through in a low of 48 minutes on a Wednesday morning, she was unable to get through at all on Tuesday afternoon, and other times waited in excess of three hours.

A significant problem that is illustrated in our paralegal's findings is that calls from cell phones fare particularly poorly. For instance, she called from a landline and a cell phone at the same time on Wednesday afternoon. The landline call got through in 1 hour and 6 minutes. The cell phone call took 3 hours and 57 minutes.

The Department acknowledges that there is a technical problem with cell phones but indicates that it cannot be fixed. This is simply not an adequate response to this issue, because many people no longer have landlines from which they can call. They are using up valuable limited minutes on wait times that are unacceptable. Moreover, we do not believe that the need to use landlines has been adequately communicated to the community at large.

Recommendation #1: The Department should continue to seek a solution to the technical problem encountered by cell phone callers.

II. The Primary Goal Should Be for Callers to Get Through to the UCSC Immediately

In our discussions with the Department, we have not had occasion to learn what progress will be considered to be “good enough” for the problem to be considered “fixed.” We do not know whether any level of redialing and waiting will be considered tolerable. We urge the Committees to identify the Department’s goal.

While we do not go so far as to say that no caller should ever encounter a busy signal, we do think that it should be the exception rather than the rule. Dedicated lines have been created for both legislative staff and legal aid staff, through which we can get through quite quickly. While we very much appreciate this special access, this should be every caller’s experience.

One of the Department’s strategies in attempting to remediate the UCSC operational problems has been to point claimants to alternative forms of communication other than the telephone. For instance, they are trying to generate more on-line applications for benefits and have created a fax option after which a claimant receives a return call from the UCSC. The thought is that redirecting some communications to these alternative modes reduces traffic for the telephones.

We agree with the general idea of opening and emphasizing additional windows for communication. However, we do not believe that these forms of communication should be required, but rather that claimants chose to use them because they are appealing and convenient alternatives to calling the UCSCs.

There has been some talk that some claimant questions should best be answered by consulting written materials such as the Department’s website and the UC Handbook. But this self-help should not be over-emphasized. Many people simply cannot be certain about whether they have answered their own questions accurately. Particularly in an environment in which possible fraud is being more aggressively scrutinized, the Department should be doing everything possible to ensure that people know and understand the rules that they are expected to follow – especially when they are trying to get answers to their questions by contacting the UC authorities.

Recommendation #2: The Department’s goal should be for callers to get through to the UCSCs for any legitimate reason with short, if any, wait times.

III. Additional Funding Should Be Invested for Administration of the UCSCs

For all of the technological and administrative efficiencies implemented by the Department (and we commend the Department for its willingness to entertain advocates’ suggestions), we expect that these improvements alone are not enough. For the phone to be answered, there must be staff to speak to.

The connection between administrative funding, staffing levels, and client wait times was clearly drawn by a study very recently released by the National Association of State Workforce Agencies (NASWA). Of 40 states responding to a survey about possible federal administrative funding reductions, 22 said that client wait times would increase if staff levels were reduced as a result of the funding loss.¹

The problem with access to Pennsylvania's UCSCs because of inadequate staffing is not a new one. While barriers to access were at their worst this fall, busy signals and difficulty getting through have with us for a long time, and now is the time to address them by supplementing the inadequate administrative funding that has caused them.

The federal funding that is supposed to fully fund the states' UC programs has been eroding for almost 20 years. As NASWA recently noted:

States argue that even in good economic times they do not receive enough administrative funds to administer their programs as well as they would like. Since 1995, the federal government has not adjusted grants to states for administration of their UI programs for inflation (except for the one percent increase in fiscal year 2010). When adjusted for inflation and normalized at a base two million average weekly insured unemployment level, base funding for State UI Administration is at its lowest level since 1986.²

As explained in more detail in my October 23rd testimony, the Department has backfilled these inadequate federal administrative funds by using some of a large one-time "Reed Act" disbursement by the federal government for basic administration of the UC system. Unfortunately, those Reed Act funds, for which there are also other important uses, are dwindling.

Obviously, Congress should live up to its obligation to make appropriations large enough so that the states' UC systems can be administered effectively. But until it does so, Pennsylvanians unemployed through no fault of their own should not be deprived of their access to family-sustaining UC benefits by a system that is starved for resources.

Thirteen (13) states have a state tax that contributes to UC administration.³ We could do the same, and without raising taxes. State employer taxes are only permitted by federal law to be used for benefits payments. However, the same is not true of our employee taxes.

¹ "NASWA Survey Highlights State UI Staffing Reductions had EUC08 Expired," NASWA Bulletin (Jan. 25, 2013).

² National Association of State Workforce Agencies, EUC08 UI Administrative Funding and State Staff Reductions (Jan. 23, 2013)(draft), at 1.

³ U.S. Dept. of Labor, Comparison of State Unemployment Laws, Table 2-17, "Taxes for UI Administration or Non-UI Purposes" (current as of Jan. 1, 2009).

In connection with Act 60, last year's UC solvency legislation, the Department projected that employee tax revenues during 2013-19 will average \$198 million per year. The General Assembly could re-designate a portion of these funds to supplemental administrative funding. So, for instance, designation of only 5% of these funds would produce around \$10 million of additional administrative funding. Recently introduced House Bill 26, sponsored by Representative William Keller, would implement this idea.

This action would remove these funds from the UC Trust Fund, where they would otherwise finance benefits. But the effect on the trust fund would be minimal, given that the fund takes in and pays out literally billions of dollars every year. And this minimal diversion of funds would have an enormously positive effect on the administration of the UCSC system, which is currently failing Pennsylvania's unemployed.

Recommendation #3: The General Assembly and the Department should inform Pennsylvania's Congressional delegation and the Secretary of the U.S. Department of Labor of the need to increase federal administration funding appropriations for the UC program.

Recommendation #4: Pending Congressional action to appropriate more adequate federal administrative funds, the General Assembly should re-designate employee tax revenues as additional administrative funding, such as by passing House Bill 26.

IV. Other Solutions Are Also Needed

To their credit, the Department continues to seek additional administrative efficiencies, and they have been very open to discussing the ideas of advocates for the unemployed. Here are a few other necessary solutions that we wish to highlight.

Recommendation #5: Better communications with the unemployed about alternative ways of getting through to the UCSCs are needed.

The Department has created alternatives to UCSC busy signals, such as its option of faxing a request for a return call to the UCSC. However, in our experience, many people still do not know about these alternatives. If, for instance, a flyer concerning alternatives to calling the UCSC were mailed with a confirmation of a new claim and perhaps other documents, the unemployed may have better knowledge of these alternatives.

Recommendation #6: The Department should liberally provide relief such as backdating to unemployed workers who are harmed by not being able to get through to the UCSC.

I am sorry to report that several of my legal aid colleagues around the state have handled appeals in which their clients made repeated and good faith efforts to reach the UCSCs but were severely penalized for failing. All three cases involved failure of the continuing claim reporting system, which required them to call the UCSC to straighten things out.

In two cases, the UC referees denied full backdating of claims despite compelling testimony of repeated unsuccessful attempts to get through. One of the claimants testified to more than 80 specific attempts to get through, with time and date, and with the support of corroborating witnesses.

In another case, a claimant was assessed a fault overpayment for not reporting wages from a part-time job, which "PAT" would not accept when he tried to report them. His failed attempts to communicate with the UCSC were exacerbated by the fact that he was at his new job during the UCSC's limited hours of service and could not be calling all the time.

That the unemployed should be so penalized under these circumstances is mindboggling. The Department's regulations on backdating provide for at least 6 weeks of backdating when the reason it is needed is that the Department was "unable to handle all filings, due to an excessive volume of telephone calls or other reasons." 34 Pa. Code §65.43a(e). The regulations also provide for up to 52 weeks of backdating where the Department "fails to accept a filing as a result of error or mistake by the Department." Id.

The Department does not control UC referees, who are of course independent reviewers of its work. However, it could avoid such cases from becoming appeals to begin with by instructing its staff to give the unemployed the benefit of the doubt when they explain that their delay in communication was caused by their inability to get through to the UCSCs. And they could also accept remands of cases that are on appeal to correct miscarriages of justice. Finally, the Department should ensure that the referees are informed about the situation with the UCSCs so that such testimony from the unemployed is heard in proper context.

The obstacles that unemployed Pennsylvanians currently encounter when trying to do their business with our UC system are insidious and must be eliminated. I know that the Department wants to do better. The General Assembly also can help by confronting the funding issue. Working together, this situation can be fixed.

Thank you again for considering my remarks. I am happy to answer questions or provide any additional information that I have.

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Community Legal Services UCSC Call Log, 1/14/2013-1/17/2013

Date	Day of week	Start Time	Final Time Connected to Live Person	Total Time to Connect	Consecutive Busy Signals	Time to Get Past Busy Signal	Hold Time After Connection
1/14/2013	Monday	1:18pm	2:09pm	51 minutes	6	20 minutes	31 minutes
1/15/2013	Tuesday	8:56am	10:11am	1hr 15 minutes	13	41 minutes	34 minutes
1/15/2013	Tuesday	11:24am	n/a	stopped at 12:22	10	31 minutes	n/a
1/15/2013	Tuesday	1:58pm	n/a	N/A, could not get through by 4	41	n/a, over 2 hours	n/a
1/15/2013	Tuesday	2:39pm	n/a	N/A, could not get through by 4	28	n/a, over 1 hr	n/a
1/16/2013	Wednesday	10:25 AM	11:13am	48 minutes	2	9 minutes	39 minutes
1/16/2013	Wednesday	12:13 PM	1:19pm	1 hr 6 minutes	7	22 minutes	44 minutes
1/16/2013	Wednesday	12:13 PM	4:06pm	3 hr 57 minutes	40	2 hrs 3 minutes	1 hr 54 minutes
1/17/2013	Thursday	8:54am	10:03am	1hr 9 minutes	9	30 minutes	39 minutes
1/17/2013	Thursday	1:02pm	N/A disconnected at 1:44pm	N/A disconnected after 42 minutes	4	14 minutes	N/A disconnected after 28 minutes
1/17/2013	Thursday	1:02pm	4:18pm	3hr 16 minutes	30	1hr 40 minutes	1 hr 36 minutes

Note: Upon a busy signal, the caller repeatedly called back until connected to the UCSC phone tree.
* *Italics means the caller called via cell phone as opposed to a Community Legal Services office phone*