

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 893

(Senator Rosapepe)

Finance

Economic Matters

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Unemployment - Insurance Revisions and Special Enrollment Period for Health  
Benefits

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This emergency bill requires the Maryland Department of Labor (MDL) to take specified actions in administering the State unemployment insurance (UI) program; most of the requirements relate to enhancing applicant and claimant services and enhancing general program administrative procedures. MDL must begin implementing a system through which a claimant may consent, as part of any weekly claim certification, to the sharing of relevant collected information by MDL with the Maryland Health Benefit Exchange (MHBE) and the Maryland Department of Health (MDH) to determine whether the individual qualifies for free or low-cost health insurance and, if so, to help the individual enroll, subject to specified requirements. MHBE must open a special or other enrollment period for an individual who consents to share the information. The bill also requires MDL to provide demographic and related claimant information to the chief elected official of a county upon request, subject to specified requirements.

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Fiscal Summary

**State Effect:** Federal fund revenues and federal/general fund expenditures for MDL increase for additional administrative funding to implement the bill, beginning in FY 2021 (the general fund portion likely totals *at least* \$150,000 across FY 2021 and 2022, and likely general fund expenditures for an annual customer service evaluation continue indefinitely). Revenues and expenditures for MDL further increase to the extent that demographic information is requested by counties beginning in FY 2021. Other agencies can likely handle the bill's requirements with existing budgeted resources, as discussed below. This estimate does not include any effects associated with health care enrollment.

**Local Effect:** Local government expenditures increase minimally to the extent UI claimant information is requested of MDL. Revenues are not affected.

**Small Business Effect:** Minimal.

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## Analysis

### Bill Summary:

#### *Required Actions in Administering the Unemployment Insurance Program*

In administering the State UI program, MDL must take the following specified actions:

- secure equal access for individuals by (1) ensuring that an individual contacting MDL has adequate and timely access to language, interpretive, and translation services; (2) for individuals with disabilities, incorporating specified accessibility features and providing notice of alternative accessibility options; and (3) conspicuously providing claimants with the option to select, at the beginning of the application for UI benefits, that paper-based notices of department action be sent by mail;
- establish procedures that require an individual who has filed an initial claim for benefits to be provided with a status update on the claim by MDL staff or contractors through telephone or email, at least once every three weeks until the initial benefits are paid or the initial claim is denied, whichever occurs first;
- by July 1, 2021, and each July 1 thereafter, contract with an external customer service quality evaluation vendor to measure (1) the clarity and organization of all public communications, including materials posted on MDL's website or mobile application; (2) the achievement of the customer service standards required under the bill and MDL's plan to meet those requirements; and (3) other customer service metrics that MDL and the vendor agree are important;
- ensure that the application for UI benefits explicitly and conveniently provides applicants with the ability to select the method of payment;
- establish systems, processes, and procedures that enable an individual filing a claim for benefits to track the status of a claim, including the anticipated timeline for the resolution of each particular claim;
- establish and maintain a plan for ongoing investment in technology;
- establish standards for the timely processing of claims for benefits, with 92% completed within 21 days after receipt of application and 97% of claims that require adjudication resolved within eight weeks after receipt of the initial application;
- establish a single point of contact within MDL to oversee and prioritize the resolution of claims that have not been completed within eight weeks; and
- track the percentage of laid-off workers who file for UI benefits, establish a goal for a UI reciprocity rate, and publish related information on the MDL website quarterly.

The Secretary of Labor is also required to notify the claimant of the basis for the recovery of previously paid benefits, including any evidence that the Secretary used to make the

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determination and the appeal rights available to the claimant. These requirements are in addition to other existing information that must be provided to the claimant in such circumstances. Additionally, the Secretary must allow a claimant to appeal a determination regarding the recovery of benefits within 30 days after the mailing or other delivery of the notice. Under current law, these decisions are appealable, but an appeal must generally be filed within 15 days; there is also a related, but separate, waiver process specifically for overpayments.

### *Unemployment Insurance and Enrollment in Health Insurance Plans*

By September 1, 2021, MDL must begin implementing a system through which an individual who has filed a claim for benefits may consent, as part of any weekly claim certification, to the sharing of relevant collected information by MDL with MHBE and MDH to determine whether the individual qualifies for free or low-cost health insurance and, if so, to help the individual enroll. The consent request must be prominently displayed on the weekly UI claim certification form.

Before the system begins to operate, MDL must enter into a memorandum of understanding with MHBE and MDH that enables the system to operate in compliance with all applicable federal and State requirements related to privacy, data security, and funding. MDL must cooperate with MHBE and MDH to claim the maximum amount of available federal funding for the establishment and operation of the system, and the three State agencies are authorized to take specified actions to facilitate the most efficient implementation of the system. By December 1 each year, MDL must report to the Joint Committee on Unemployment Insurance Oversight on the implementation of this requirement.

MHBE must open a special or other enrollment period for an individual who consents to share information in accordance with the above provisions, subject to specified requirements.

### *Information Sharing with Local Governments*

On request and for purposes consistent with the bill and other specified legislation, MDL must provide to the chief elected official of a county demographic data and the addresses, occupations, and last known employers of UI recipients who live in that county. A chief elected official of a county may (1) share the provided information with the governing body of the county and (2) request the information on behalf of a political subdivision within the county and provide the information to the political subdivision. The Secretary may adopt regulations to carry out these provisions, as specified.

### *Call Center Staffing Plan*

By June 1, 2021, MDL must submit to the General Assembly a detailed, comprehensive, and funded plan to ensure that call center staffing is adequate to allow an individual to reach a departmental employee or contractor to ask questions.

### *Identification and Incorporation of Changes to Federal Regulations and Guidance*

By June 1, 2021, MDL must identify all changes in federal regulations and guidance that would expand access to unemployment benefits or reduce bureaucratic hurdles to prompt approval of unemployment benefits. By July 1, 2021, MDL must revise State UI rules and practices to encompass any changes in federal regulations and guidance.

**Current Law:** Many of the requirements addressed in the bill are administrative in nature and relate to enhancing the claimant experience or MDL's ability to effectively administer the State UI program. Some metrics, such as timely first payment of benefits, are federal performance requirements. More information on federal performance requirements is available on the U.S. Department of Labor's [website](#), including [core measures](#).

Claimants have the right to appeal any determination or redetermination of their UI claim, and generally must do so within 15 days after notice of the determination or redetermination is mailed. MDL regulations allow an extension for good cause shown. Claimants also have a right to request a waiver of any overpayment that results from a determination – which is not the same as an appeal – and may do so within 30 days of the notice of overpayment. After 30 days, and for up to one year, a claimant may request a waiver of any overpayment if the claimant can show good cause for not meeting the 30-day requirement. If a claimant appeals the underlying determination that caused the overpayment, the request for a waiver will be stayed pending appeal.

MDL advises that, while there is no statutory or regulatory basis for the right to appeal the denial of a request to waive an overpayment, the Board of Appeals issued an opinion that created an appeal right for such denials. The Division of Unemployment Insurance has followed that opinion and, when the Secretary denies a waiver request, has provided notice to claimants of their right to appeal the denial.

For a general overview of the State's UI program, see the **Appendix – Unemployment Insurance**.

## **State Fiscal Effect:**

### *Maryland Department of Labor Administrative Costs*

A precise estimate of MDL's administrative costs cannot be made at this time, given the scope of the bill, the potential methods of implementation, and whether and to what extent some requirements are already being met. Except for the local data sharing requirement, discussed separately below, if existing federal administrative funds are insufficient, additional above-base federal funding will be provided to the extent that the expenses are allowable, beginning in fiscal 2021. General funds are needed to cover any remaining costs. Not all costs under the bill will be reimbursable. For example, MDL advises that the MHBE information sharing requirement is not eligible. MDL's estimated costs associated with the MHBE requirement are \$100,000 in programming costs (fiscal 2022), plus a cost allocation for staff time (beginning in fiscal 2022). Likewise, the annual customer service assessments, which are estimated to cost \$15,000 to \$100,000 each, are likely not eligible. These are not necessarily the only administrative costs ultimately required to be paid for with general funds.

### *Local Data Sharing*

MDL advises that the requirement for the department to share certain claimant data with counties upon request likely conforms to federal requirements, but that associated costs are not reimbursable from the federal government. MDL will charge counties that choose to request the data a fee to cover the costs of providing the data. Typical fees have a fixed component of \$5,000 to \$10,000 and then a variable component based on the number of requests received. Accordingly, revenues and expenditures for MDL increase beginning as early as fiscal 2021 by an unknown, but likely modest, amount to the extent counties request UI claimant data as authorized. Whether or not the Special Administrative Expense Fund in the department will be used to account for the costs and collect the related revenues is unknown at this time; regardless of the fund type, the effect on State finances is neutral.

### *Maryland Health Benefit Exchange*

MHBE anticipates costs of about \$360,000 to implement the information sharing arrangement with MDL to receive information, process data, send notices, handle exceptions, and perform Medicaid reporting. An additional one-time cost of \$40,000 is expected for information technology system modifications to allow for a special enrollment period for UI claimants. After initial implementation, costs are estimated at \$168,600 annually. Initial implementation costs are assumed to be incurred in fiscal 2022, consistent with the September 1, 2021 requirement to begin implementation. MHBE can likely absorb these costs within existing resources, as the \$35.0 million annual appropriation for MHBE has not been fully spent in recent years.

**Local Expenditures:** Under the bill, MDL must provide certain UI claimant information to the chief elected official of a county upon request, subject to specified requirements. As discussed above, MDL will charge counties a fee to cover the costs of providing the information. Therefore, local government expenditures increase minimally to the extent UI claimant information is requested of MDL.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Labor; Department of Budget and Management; Maryland Department of Health; Maryland Health Benefit Exchange; Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2021  
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Analysis by: Stephen M. Ross

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

## Appendix – Unemployment Insurance

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### *Program Overview*

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits of up to \$430 per week to individuals who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for UI programs. Generally, funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their UI trust funds. Using federal tax revenues, the UI program is administered pursuant to state law by state employees. The Maryland Department of Labor’s Division of Unemployment Insurance administers the State’s UI program.

Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

### *Employer Contributions*

Most Maryland employers pay State UI taxes, although State and local governments and some nonprofit organizations reimburse the Unemployment Insurance Trust Fund (UITF) for claims paid in lieu of paying taxes. Therefore, for most Maryland employers, the State UI tax rate is a function of:

- the employer’s specific unemployment claims history; and
- the applicable tax table, which is based on the State’s UITF balance and applies to most taxable employers.

**Exhibit 1** shows the range of State UI taxes a typical employer owes based on the tax table in effect; there are other rates for new employers and in other limited circumstances. State UI taxes and reimbursements are typically due quarterly; however, Chapter 39 of 2021 allows employers with fewer than 50 employees to defer 2021 State UI tax payments or reimbursements until January 31, 2022, and authorizes the Secretary of Labor to offer a similar deferment in 2022. The Act, in conjunction with a recent executive order, also generally prevents UI claims made during the COVID-19 pandemic from increasing an employer’s taxes – although Table F, with its broadly higher rates, is in effect in 2021.

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**Exhibit 1**  
**Tax Tables and Applicable Employer Tax Rates**

| <b>Tax Table</b> | <b>As of Sept. 30, if the Trust Fund Balance, As a Percentage of Taxable Wages</b> |              | <b>Trust Fund Balance (\$ in Millions)</b> |              | <b>Then Next Year's Tax Rates Range from...</b> |                     |              | <b>Annual Tax Per Employee (Rate x \$8,500)</b> |                     |              |
|------------------|--|--------------|--|--------------|---|---------------------|--------------|---|---------------------|--------------|
|                  | <b>Exceeds</b>   | <b>Up to</b> | <b>Exceeds</b>                             | <b>Up to</b> | <b>No Claims</b>                                | <b>Single Claim</b> | <b>Up to</b> | <b>No Claims</b>                                | <b>Single Claim</b> | <b>Up to</b> |
| A                | 5.00%  | N/A          | \$995.8                                    | N/A          | 0.30%   | 0.60%               | 7.50%        | \$25.50   | \$51.00             | \$637.50     |
| B                | 4.50%  | 5.00%        | 896.2                                      | \$995.8      | 0.60%   | 0.90%               | 9.00%        | 51.00   | 76.50               | 765.00       |
| C                | 4.00%  | 4.50%        | 796.6                                      | 896.2        | 1.00%   | 1.50%               | 10.50%       | 85.00   | 127.50              | 892.50       |
| D                | 3.50%  | 4.00%        | 697.1                                      | 796.6        | 1.40%   | 2.10%               | 11.80%       | 119.00  | 178.50              | 1,003.00     |
| E                | 3.00%  | 3.50%        | 597.5                                      | 697.1        | 1.80%   | 2.60%               | 12.90%       | 153.00  | 221.00              | 1,096.50     |
| F                | 0.00%  | 3.00%        | 0.0  | 597.5        | 2.20%   | 3.10%               | 13.50%       | 187.00  | 263.50              | 1,147.50     |

Notes: Fund balance threshold dollar amounts are based on the 2020 taxable wage base and are subject to change each year. A “single claim” represents the tax rate applicable to the lowest possible rate associated with nonzero (.0001 to .0027) benefit ratios. Taxes are applied to the first \$8,500 earned by each employee, each year; compensation less than that amount reduces taxes owed accordingly. Table F is in effect in 2021 and is likely to be in effect for at least two more years; Table A had been in effect since 2016.

Source: Department of Legislative Services

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*Benefit Payments*

Generally, the weekly benefit amount a claimant is eligible for is based on the quarterly wages that the claimant was paid for covered employment in the calendar quarter of the claimant’s base period in which those wages were highest. The base period is the first four of the last five completed calendar quarters immediately preceding the start of the benefit year, or, if the individual does not qualify under that definition, the four most recently completed calendar quarters immediately preceding the start of the benefit year.

Weekly benefit amounts range from \$50 to \$430 per week, based on earnings in the base period. There is also a dependent allowance of \$8 per dependent, for up to five dependents, although the allowance cannot raise the weekly benefit amount above \$430. The first \$50 of any wages earned by an individual receiving UI benefits in a given week is disregarded for purposes of calculating the weekly benefit amount, after which the benefit payment is reduced dollar for dollar. These amounts do not adjust for inflation. Generally, during a benefit year, a claimant is entitled to 26 times the claimant’s weekly benefit amount. During periods of high unemployment, extended benefits may also be available.