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Maryland's Unemployment Insurance System Must Guarantee Transparent Due Process

Position Statement in Support of House Bill 955

Given before the House Economic Matters Committee

Unemployment insurance is an essential lifeline to ensure that workers who lose their job through no fault of their own can keep up with basic expenses like food and rent. Unemployment insurance is also among the fastest, most effective tools to support the economy in a downturn. However, the COVID-19 pandemic has exposed deep cracks in Maryland's unemployment insurance system. **The Maryland Center on Economic Policy supports House Bill 955** because it would ensure basic due process protections for unemployed workers suspected of receiving overpayments.

Maryland's current unemployment insurance system is failing out-of-work Marylanders in multiple ways:¹

- Marylanders who use unemployment benefits to make ends meet face considerable hardship. One in three Maryland adults who used unemployment benefits to cover household expenses between December 2021 and early February 2022 reported that they didn't always get enough to eat, compared to only 7% of Maryland adults overall.
- Before the coronavirus pandemic hit, only 23.5% of unemployed workers in Maryland received unemployment benefits, a smaller share than in 28 other states. Unemployed workers in all four of Maryland's neighboring states were more likely to receive unemployment benefits. In New Jersey, 59.0% of unemployed workers received benefits.
- Maryland has repeatedly been among the worst-performing states on first payment timeliness since the onset of the pandemic, meaning that workers who were eligible to receive benefits often waited months to see a single cent come in. Workers' bills and daily expenses could not be delayed in similar manner.

House Bill 955 would provide the most basic protections to workers suspected but not yet proven to have received overpayments from then unemployment insurance system:

- The bill requires that workers be given an opportunity to dispute suspected overpayments before the state initiates clawbacks or penalties. The state must notify workers of the specific evidence of overpayment, including specific evidence of misconduct that could lead to assessment of penalties or interest.
- The bill requires that the state notify workers of suspected overpayment by mail or email rather than a posting to an online portal that the worker might miss.
- If the state concludes that a worker has been overpaid and seeks to recover the overpayment, the bill requires that the state explain the specific evidence for this conclusion.

- If the state concludes that a worker has been overpaid and seeks to recover the overpayment, the bill requires that the state explain in detail how to appeal a decision, strengthening and clarifying the current, vague requirement that the state explain “appeal rights available.”

An effective unemployment insurance system benefits all workers, the businesses where they spend their money, and the communities they live in. It is especially important for workers who face structural barriers built through centuries of racist policy choices:ⁱⁱ

- Between 2015 and 2020, Black workers in Maryland were on average slightly more than twice as likely as white workers to be unemployed – meaning they were actively looking for a job but unable to find one – at any given time. This means that downturns such as the one caused by the COVID-19 pandemic hit Black workers especially hard.
- While higher levels of education do improve a person’s prospects in the labor market, even highly educated workers of color often face barriers. For example, between 2015 and 2019 in Maryland, the average unemployment rate among Latinx women with a four-year degree was 4.3%, compared to 2.3% among white women with a four-year degree.
- These are not isolated cases. During the same period, Black and multiracial men with a four-year degree, as well as essentially all women of color with a four-year degree, faced higher unemployment rates than white men with the same level of education.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the House Economic Matters Committee make a favorable report on House Bill 955.

Equity Impact Analysis: House Bill 955

Bill summary

House Bill 955 guarantees basic due process protections to workers suspected of receiving unemployment insurance overpayments:

- The bill requires that workers be given an opportunity to dispute suspected overpayments before the state initiates clawbacks or penalties. The state must notify workers of the specific evidence of overpayment, including specific evidence of misconduct that could lead to assessment of penalties or interest.
- The bill requires that the state notify workers of suspected overpayment by mail or email rather than a posting to an online portal that the worker might miss.
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Background

Maryland's unemployment rate increased sharply at the onset of the COVID-19 pandemic, increasing from an average of 3.5% during 2019 to a high of 9.0% in spring 2020.ⁱⁱⁱ Unemployment has since fallen gradually, reaching 5.0% in December 2021.

In 2019, unemployment benefits in Maryland averaged \$357 per week, equivalent to \$18,553 per year.^{iv} Even with the expanded benefits federal pandemic relief legislation provided, Marylanders who use unemployment benefits to make ends meet still faced considerable hardship during summer 2021. Nearly half reported having difficulty paying for usual household expenses; one in five said they didn't always get enough to eat; one in nine were behind on their most recent mortgage or rent payment; and one-third weren't sure they can make their next housing payment.

Before the coronavirus pandemic, only 23.5% of unemployed workers in Maryland received unemployment benefits, a smaller share than in 28 other states.

One in three Maryland adults who used unemployment benefits to cover household expenses between December 2021 and early February 2022 reported that they didn't always get enough to eat, compared to only 7% of Maryland adults overall.

The state's Division of Unemployment Insurance entered the COVID-19 pandemic with 480 full-time equivalent staff (internal and contractual positions), down from a high of 702 in FY 2013. Between FY 2003 and FY 2015, the division never had less than 590 full-time equivalent staff. As unemployment surged during the pandemic, the division struggled to keep up with applications, leading to exceptionally long wait times.

Equity Implications

Structural barriers in our labor market, which were built through centuries of racist policy choices, put Black workers and other workers of color at greater risk of being unemployed – actively seeking a job but unable to find one. For this reason, ineffective or overly restrictive unemployment insurance policies disproportionately harm workers of color.

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Impact

House Bill 955 would likely **improve racial and economic equity** in Maryland.

ⁱ See discussion in Christopher Meyer, “Budgeting for Opportunity: Maryland’s Workforce Development Policy Can Be a Tool to Remove Barriers and Expand Opportunity,” Maryland Center on Economic Policy, 2021, <http://www.mdeconomy.org/budgeting-for-opportunity-workforce>

ⁱⁱ Meyer, 2021.

ⁱⁱⁱ BLS Local Area Unemployment Statistics.

^{iv} See Meyer, 2021.