



MARYLAND
LEGAL AID

Advancing
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Justice for All

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March 15, 2022

Senator Delores G. Kelley
Chair, Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Support for Senate Bill 635

Dear Madam Chair, Vice Chair Feldman, and Members of the Committee:

Thank you for the opportunity to testify in support of SB 635. This Bill creates procedures and much-needed clarity related to the State's recovery of unemployment benefits that have allegedly been overpaid. It will significantly benefit unemployment claimants, because they will receive an explanation of the State's determination and associated billing and an opportunity to contest it rather than just an unexpected bill with no understanding as to how it was calculated. Maryland Legal Aid (MLA) submits this testimony at the request of Senator Lam. Cornelia Bright Gordon, Esq. will testify at the hearing on behalf of MLA.

MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents, including seniors and veterans. MLA handles civil legal cases involving a wide range of issues, including government benefits, housing, family law, consumer law (e.g., bankruptcy and debt collection), health law, and criminal record expungements. Maryland Legal Aid has assisted thousands of clients seeking assistance with unemployment benefits and alleged overpayments.

The current process where Marylanders are notified of an alleged overpayment of benefits lacks clarity and fails to provide due process to citizens. MLA's clients are frequently shocked by hefty, unexpected bills and generally have little recourse to contest the amount and even less understanding as to why it was assessed.

SB 635 creates a way for claimants to participate when the Maryland Department of Labor (Agency) initiates an overpayment allegation. The Bill also requires that

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01.2022



the Agency engages in a transparent process during the overpayment assessment process. The Bill establishes fair procedures for both the agency and the public. Unemployment Claimants will receive an explanation as to how an overpayment is calculated, specific facts supporting the determination of the overpayment, an explanation of how to contest the assessment, and a specific explanation of any penalty imposed by the agency. The claimant will be able to contest the assessment in a “predetermination process.” A predetermination process of this nature is also required by federal guidance.¹ MLA has seen many cases where the calculation of the alleged overpayment was a complete mystery. MLA clients, already often struggling to make ends meet, suddenly receive a large bill with a payment deadline. SB 635 creates notice requirements that also are on a par with the process used by other State and Federal agencies when alleging overpaid benefits. The opportunity for appeal and the process brings the State of Maryland in compliance with federal constitutional due process requirements.

The Maryland General Assembly has proclaimed that “economic insecurity due to unemployment is a serious menace to the health ... and welfare of the people” of Maryland.² Unemployment Insurance benefits are intended to benefit individuals who become unemployed due to no fault of their own. Job loss creates uncertainty, hardship, and much fear. Unemployment benefits help to salve the hardship. Unfortunately, the sudden appearance of invoices demanding the return of thousands of dollars of unemployment benefits without explanation represents unreasonable, uncivil, and unconstitutional State action.

MLA also notes that many clients are on the “wrong side” of the digital divide. Many MLA clients lack internet service, smartphones, and/or laptops. Many MLA older adult clients are employed and are entitled to unemployment benefits – but they do not use email. For these clients, emailed notice can be tantamount to zero notice. SB 635 requires the agency to send overpayment notices by U.S. mail, putting these individuals on parity with people who do have internet and email access.

Thank you for the opportunity to provide testimony on this Bill. MLA highly recommends the Bill and **urges the Committee to issue a favorable report on SB 635.**

Sincerely,

/s/ CBG

Cornelia Bright Gordon

Director of Advocacy for Administrative Law

¹ UIPL No. 01-16, UNITED STATES DEPARTMENT OF LABOR, at 4 (October 1, 2015), https://wdr.doleta.gov/directives/attach/UIPL/UIPL_01-16_Acc.pdf.

² Md. Ann. Code, Lab. & Empl. § 8-102(b)(1).