



Lucy Zhou, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 245
zhoul@publicjustice.org

HB 140 Unemployment Insurance – Recovery of Benefits – Limitation and Methods

Hearing of the House Economic Matters Committee, February 21, 2023

Position: Favorable

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. The PJC **supports HB 140**, which would cap the offset of weekly unemployment insurance benefits to recover non-fraud overpayments.

Current law unfairly penalizes Marylanders for non-fraud overpayments of unemployment insurance benefits.

- Because of its own errors or for reasons other than fraud, the Maryland Department of Labor ("MDOL") often pays unemployed Marylanders more unemployment benefits than they are eligible for. These Marylanders did nothing wrong, and many relied on the benefits when they received them to cover the essentials of life, including rent, food, gas, and other basics.
- Current law allows MDOL to offset 100% of weekly unemployment benefits until an overpayment balance is satisfied, even if the overpayment was not the claimant's fault. A 100% offset means that unemployed Marylanders can be left with no financial support at all despite continued unemployment. This gap in benefits can cause extreme financial hardship and result in homelessness, hunger, and other crises for unemployed Marylanders and their families.

HB 140 would better balance Maryland's interest in recouping overpaid benefits while also allowing unemployed Marylanders to continue receiving some benefits to help them get by.

- HB 140 would permit the MDOL to recover non-fraud overpayments of unemployment benefits by:
 - Offsetting no more than 50% of weekly benefit payments; or
 - If the weekly benefit amount is \$100 or less, offsetting no more than 25% of weekly benefit payments.
- For example, if an unemployed Marylander has a non-fraud overpayment balance and is receiving benefits of \$400/week, MDOL could hold back \$200/week (i.e., 50% of the weekly payments) to repay the balance. If the person is receiving benefits of \$80/week, MDOL could hold back \$20/week (i.e., 25% of the weekly payments) to repay the balance.

HB 140 would align Maryland with what many states and the federal government already do when it comes to recovery of non-fraud overpayments.

- Many states—including Connecticut, Delaware, New York, North Carolina, Pennsylvania, Virginia, and others—cap future benefits offsets at 50% or lower in cases of non-fraud overpayments of unemployment insurance benefits.¹
- The United States Department of Labor has reviewed the text of HB 140 and confirmed that the bill does not present any conformity issue with federal unemployment compensation law. In fact, the federal Pandemic Unemployment Assistance, Pandemic Unemployment Compensation, Mixed Earners Unemployment Compensation, and Pandemic Emergency Unemployment Compensation programs all cap future benefit offsets to no more than 50% in the case of overpayment.²

Mr. William Sanders is a Public Justice Center client who could not be present at the hearing, but asked that we share his experience:

My name is William Sanders and I live in Pasadena, Maryland. I have been a self-employed, freelance musician for about 20 years. Starting in March 2020, because of the pandemic, many of the events I had been hired for were canceled, and I stopped getting new bookings. In April 2020, I applied for unemployment benefits with the Maryland Department of Labor and began receiving payments in June 2020.

A few months later, in August or September 2020, I noticed that the Department began reducing the amount of benefits it was paying as “overpayment offsets,” even though I had not received any notice of an overpayment. At one point, the Department’s online portal, BEACON, showed that I had an overpayment balance as high as \$35,000, even though I did not receive any notice explaining the overpayment or how to challenge it. But the Department continued to deduct all or almost all of my benefits; sometimes I would only get \$8 a week, and other times the Department offset my entire benefit amount and I got nothing. This issue remained unresolved for over a year, despite my repeated attempts to find out how this had happened and how to fix it.

To this day, I still have no idea why this supposed overpayment occurred. The Department has never provided me with any information suggesting I did anything wrong. The Department’s reduction of my benefits to offset this alleged overpayment was incredibly stressful and hard on me and my family. We did not have enough income to pay for our basic living expenses, fell behind on our rent, and had to rely on food pantries and Meals on Wheels to eat. I also had to cut back on driving, which made it very hard to search for a new job, because I could not afford to fill my car up with gas.

I hope no other families have to go through such a painful and unfair situation. That’s why I am in full support of HB 140, which would limit how much the Department can deduct from a weekly benefit payment to recover an overpayment. This would mean that Marylanders cannot have their entire benefit amount withheld to pay an overpayment that was not their fault to begin with. Being able to receive some minimum amount of money each week would have made a meaningful difference in my ability to care for and provide for my family. I hope you can see why this is important to people doing their best to get by and I hope you pass this bill. Thank you.

For the foregoing reasons, the PJC **SUPPORTS HB 140** and urges a **FAVORABLE** report. Should you have any questions, please call Lucy Zhou at 410-625-9409 ext. 245.

¹ See Table 6-2, Recovery of Nonfraud Overpayments, <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/overpayments.pdf>.

² See Attachment I to U.S. Department of Labor Unemployment Insurance Program Letter No. 20-21, https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL_20-21.pdf.

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