

# VERMONT LEGAL AID, INC.

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January 5, 2021

Commissioner Michael Harrington  
Vermont Department of Labor  
5 Green Mountain Dr.  
P.O. Box 488  
Montpelier, VT 05601-0488  
Via email: [labor.commissioner@vermont.gov](mailto:labor.commissioner@vermont.gov)

Dear Commissioner Harrington:

Ten months have passed since the coronavirus pandemic devastated the U.S. economy and drove thousands of Vermonters out of the labor force. The Vermont Department of Labor was quickly inundated with tens of thousands of new unemployment claims, in addition to the monumental task of implementing several new federal benefit schemes authorized by the CARES Act (PUA, PUC, PEUC). My colleagues and I at Vermont Legal Aid appreciate the hard work by Department staff to roll out these new benefit programs and process the deluge of claims in a time of extraordinary crisis. Yet, we continue to receive hundreds of calls from Vermonters who are desperately trying to receive unemployment benefits to which they are entitled.

We are writing to bring renewed attention to several urgent problems and to ask for your plans to resolve them. Vermont Legal Aid understands that most of these problems would dramatically be improved if the Department had additional staff. We support any efforts to increase Department staffing and would gladly testify to this need before the Legislature. Please let us know if there are affirmative steps we can take to support more staffing for the Department.

We are concerned about the following categories of claimants:

1. Claimants who applied for unemployment and PUA in the spring and summer of 2020, who still have not had a determination made on their claim or still have not been provided a way to apply for the PUA. These people need their claims processed immediately.  
*We ask that you devote staff time to clearing the backlog of initial claim determinations.*
2. Claimants whose regular unemployment benefits and PUA benefits are delayed because their cases are flagged for follow-up by a claims adjudicator. These claims are left in limbo for weeks or months, and claimants are without recourse, unable to reach their adjudicator directly.  
*We ask that you expedite review by trained adjudicators to minimize delays in the adjudication process and the issuance of claims.*

3. Claimants who are approved for benefits and later notified that the approval was in error, resulting in an alleged overpayment and benefit withholding. In many cases, an error by Department staff or contractors caused the overpayment, with no fault on the part of the client. Given backlogs, unemployed claimants then wait months before their appeal can be heard, with no access to any income. Some of these claimants did not receive written notice and do not know why their benefits have stopped.

We ask that you cease recoupment and collection of all contested overpayments until after the Administrative Law Judge decision is issued. We ask that Administrative Law Judges waive collection of overpayments when the claimant is without fault and the issue is Department error.

4. Claimants who are barred from having their appeal heard due to the expiration of the 30-day appeal deadline. For many months in the spring through the fall of 2020, claimants could not reach the Department by phone, and could not get their questions answered about their claims. The Department has continued to strictly enforce the appeal deadline for claimants, while repeatedly violating its own statutorily mandated 30-day deadline for conducting appeal hearings by months.

We ask that you allow a 60-day appeal deadline during the State of Emergency and while the Department remains inconsistent is its ability to respond to direct inquiries and schedule appeal hearings in a timely manner.

5. Claimants who call to speak to a Department representative and are given incorrect or contradictory information. Our clients report that they are simply told that no one can answer their questions about eligibility or when to expect their benefits; they will just have to wait to see if they get paid. Clients use the online Claimant Inquiry Tool to inquire about their claim and receive no response.

We support resources to the Department to increase staffing and training.

Even as the Vermont economy begins the slow process of recovery, many Vermonters are still out of work. The Department of Labor plays a vital role in that recovery process. We appreciate your hard work, and are extremely concerned that, ten months after the pandemic began, the Department still cannot clear the backlog of unemployment claims or reliably respond to claimant questions.

We respectfully request your immediate attention to these matters and would welcome an opportunity to meet with you to hear about your proposed solutions.

Thank you.  
Sincerely,

*Kelli Kazmarski*

Kelli Kazmarski  
Staff Attorney

cc: Cameron Wood, Unemployment Compensation Division Director, via email:  
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Representative Michael Marcotte, Chair, House Committee on Commerce and Economic  
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