

**State of Vermont
Department of Labor**

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MEMORANDUM

To: Senate Economic Development Committee
From: Michael Harrington, Commissioner of Labor
Date: September 28, 2021
Subject: Unemployment Insurance \$25 Per Week Benefit and UI Mainframe

Below are responses to the questions posed to the Department by Senator Sirotkin on September 23, 2021.

A) With respect to current UI benefits, Sen. Sirotkin has the following questions:

1. What is the total number of claimants currently receiving UI benefits?

As of the benefit week ending September 18, there were 4,219 continue claims filed for unemployment insurance benefits.

2. Of the claimants currently receiving benefits, how many are receiving the maximum weekly benefit?

This information requires the Department to create a UI Mainframe report which we do not have the ability to complete before the Senate Economic Development hearing on September 28. Historically, 25-33% of all unemployment insurance recipients receive the maximum weekly benefit amount. Thirty-three percent of 4,219 is 1,392.

3. Of the claimants currently receiving benefits, how many would see their weekly benefit amount increase if we established a minimum weekly benefit amount of \$150.00?

Based on historical information available, about 10% of claimants have a weekly benefit amount of \$150 per week or less. Additional analysis would need to be conducted to determine the size of the current claimant population with a weekly benefit amount of \$150 or less.

B) With respect to changing the UI weekly benefit amount, Sen. Sirotkin would like to better understand the reasons behind the Commissioner's testimony that a change to the weekly benefit formula in 21 V.S.A. 1338(e) (such as by changing the divisor from 45 to 43) could not be supported by the UI Mainframe.



1. Could you please provide a detailed explanation of why such a change could not be implemented in the UI Mainframe and the potential issues or challenges for Vermont's UI program that could result from such a change?

It is important to note that since 2018 the Department has seen a 100% turnover in its Mainframe IT staff. These were the individuals that had been working on this system for the last 25+ years, and without their institutional knowledge, we are all but guaranteed to do more harm than good if we start making uninformed adjustments to the mainframe code. Those individuals were highly skilled not only in COBAL coding, but also knew how the system was built and modified over the years. They also knew the foundational components of unemployment insurance.

Given the limited COBAL knowledge of the existing staff, we believe making changes to the base code would likely have a cascading effect on the entire system, putting us further out of compliance and risking the integrity of the core system. Examples of additionally non-compliance issues that are likely to occur if we were to make changes to the underlying benefit code would be, increased improper payments and incorrect benefit calculations, improper employer charging, lost payment data, incorrect overpayment determinations that would require a formal appeal, and increased instability in the system itself. All of which, would lead to increased costs, system outages, significant audit findings, and obviously a negative impact on a large portion of the claimant population that we are trying to serve.

Currently, the system is designed so that a weekly benefit amount is calculated for each claim at the time an initial claim is filed. This amount, or weekly benefit amount (WBA) is used as the basis for the amount paid to claimants throughout the lifecycle of the claim.

If the Department were to add \$25 per week to each claim in a way that conforms with USDOL requirements, each claim would be required to be redetermined using the new formula. When this occurs, it would lead to checks being issued to the claimant to back pay the amount. For example, if the \$25 per week benefit were implemented on October 1, and an individual has been filing since August 1, they would receive \$25 per week in backpay for all weeks between August 1 and October 1, and then would continue to receive it moving forward. This would change the amount of money collected via offsets in the cases of offsets being recouped.

There is no mechanism for mid-stream WBA changes to be made based on a specific date range. The one exception is the annual redetermination which impacts only a subset of claimants and only raises the maximum WBA in the event you were previously at the maximum. This took years to develop and is a vetted process which only impacts a smaller subset of claimants. Additionally, since the loss of the institutional knowledge within the development team, there have been significant configuration issues the last two years resulting from the annual redetermination of the maximum benefit amount. These configuration issues result in improper payments that negatively impact the claimant.

As a final note, the Department has reviewed both the statute and available documentation, as well as had conversation with available staff who have been with the Department for more than 15-years and was unable to identify an instance where the 'divisor' in the weekly benefit calculation was ever adjusted.



- 2. Could you please provide an explanation of how, in the context of the UI Mainframe, establishing a minimum weekly benefit amount is different from making changes to the weekly benefit formula and why it may be possible to establish a minimum weekly benefit amount?**

It is not impossible to set a new minimum amount, but the process for raising the minimum benefit amount mid-claim has not yet been established. While setting a minimum weekly benefit amount is an option, it does not come without risk, and because it has the potential to impact all claimants at some point in time, the challenges are much greater.

Given the federal requirement that the payment be included in the core WBA to ensure employer charging is appropriately distributed and the payment is not considered a supplement, adding it to the WBA is the only way to accomplish it.

When the Mainframe team tried to override the core system in the past in order to comply with the prior federal requirements, it was unsuccessful in doing so, and the process had to be completed manually to each impacted claim. This would not be an option in the case of the supplemental benefit due to the size of the population, but this further illustrates the challenges with adjusting the base code.

C) With respect to the \$25.00 supplemental benefit, Sen. Sirotkin has the following questions:

- 1. Could the Department please provide an updated estimate of the amount of benefits that would be paid out in both the first six months and the first year if the \$25.00 supplemental benefit could somehow be implemented on October 6?**

In order to complete this estimate, the Department would need to know the size of the claimant population for the next 6-12 months, and it would need to know the number of weeks claimants will file for benefits during this time. Because of the unprecedented impacts the health emergency has had on claims over the past 18 months, it is impossible at this time to provide an informed analysis of the future of the filing population.

- 2. Was VDOL's interpretation of the provision creating the \$25.00 supplemental benefit discussed with or approved by the Governor's office prior to Director Wood's July 28th letter to the US DOL interpreting the General Assembly's intent in relation to that provision?**

While communications with the Governor and executive staff fall under executive privilege and cannot be shared, Department leadership is in contact with the Governor's Office multiple times each week.

- 3. Did VDOL discuss the decision not to inform the General Assembly between June 8 and August 24 of the potential nonconformity of the provision creating the \$25.00 supplemental benefit with the Governor's office?**

There was no discussion at any time that involved Department staff actively choosing to not inform the Legislature.



D) With respect to Act 51 from this past session:

- 1. Can you explain why the COVID-related relief for employer's experience ratings did not cause problems with the UI mainframe or, if they did, can you please explain the nature of the problems caused and how significant or extensive they were?**

While the weekly benefit amount has a direct connect back to employer experience rating, providing relief to the employer does not have the same reciprocal impact to claimants. While providing universal charge relief does come with its own set of challenges, because charges are tied to individual claims and not to the employer's profile, applying charge relief is relatively insular in nature. Charges flow down from the claim to the employer, so relieving charges at the employer level has less of an ability to have a compounding negative impact on the claimant population.

