



Unemployment Insurance Advisory Committee

Meeting details

Date: Friday, February 24, 2023

Time: 2:00pm- 3:00 pm

Location: Zoom

Committee members present

Employee Representatives

- Sybill Hyppolite, Washington State Labor Council (alternate)
- Josh Swanson, Operating Engineers 302
- Brenda Wiest, Teamsters 117

Employer Representatives

- Bob Battles, Association of Washington Business
- Julia Gorton, Washington Hospitality Association
- Tammie Hetrick, WA Food Industry Association

General Public Representatives

- Allyson O'Malley-Jones (alternate), Northwest Justice Project
- Anne Paxton, Unemployment Law Project
- William Westmoreland, Pac Mtn WF Dev Council

ESD staff

- Joy Adams
- Danielle Cruver
- Joshua Dye
- Vaughn Ellis
- Caitlyn Jekel
- Matt LaPalm
- Marypat Meuli
- Scott Michael
- Allison Peterson
- JR Richards

Committee members and alternates absent

- Monica Holland (alternate public rep), Northwest Justice Project
- Joe Kendo (alternate employee rep), Washington State Labor Council
- Cindy Richardson, UNITE HERE Local 8
- Sophia Steele (alternate employer rep), Associated Builders and Contractors
- Courtney Williams, Community Employment Alliance

- Stephanie Sams
- Dan Zeitlin

Summary

Meeting Recorded

This meeting was [recorded](#) and also livestreamed by TVW.

Welcome and Opening Remarks

- Unemployment Insurance Customer Support Director, JR Richards, welcomed everyone and Allison Peterson called roll.

Meeting Minutes

JR Richards requested that everyone review the meeting minutes for January 27th, 2023 and provide their feedback. William Westmoreland made a motion to approve the minutes and Brenda Weist seconded the motion. JR asked for all members in favor to say, “Aye.” All members responded, “Aye”. JR asked members that oppose to say, “Nay.” No one responded. The January 27th, 2023 meeting minutes were approved.

Agenda

JR Richards reviewed the following agenda items (also see Addendum I.)

- Agency Request Legislation - update
- Unemployment Insurance Administrative Funding - update
- Other UI-Related Legislation – update
- Rulemaking – update
- Pandemic Era Overpayments - update
- Future Agenda Topics

Agency Request Legislation - update

JR Richards handed the meeting over to Caitlyn Jekel, Government Relations Director, ESD to provide an update on agency request legislation.

Caitlin provided an update on the following:

- SB 5240 (Companion is HB 1656) – SB 5240 is on the Senate floor calendar, HB 1656 is in Rules.
- SB 5331 – has passed the Senate and is presently in House Labor & Workplace Standards.
- HB 1107 – has passed the House and is in Senate Labor and Commerce.

Unemployment Insurance Administrative Funding

Caitlyn Jekel provided an update on the following:

- The Unemployment Insurance program is primarily federally funded. However, federal funding typically covers only about 70% of base costs.
- The Employment Security Department (ESD) covers the remaining base costs through a mix of other federal and state funding.
- Federal funding for UI has fallen more sharply post-pandemic than is typical after an economic downturn.
- In addition, a higher than normal workload remains due to the prolonged impact of standing up and implementing pandemic-era programs.
- As a result, customer support functions, including claims processing and phone calls are suffering.
- ESD presented the following three options to the legislature for possible funding choices (this information can also be found in the 2-page summary provided by email from JR ahead of this meeting):
 - Maintain current funded level for the biennium: \$21 million in order to avoid staffing reductions and keep current with incoming work.
 - Create a dedicated team to process overpayments backlog - \$11.7 million
 - Create a navigation services team for highly barriered customers who may struggle to navigate unemployment on their own – \$1.48M FY24; \$1.44M FY25 and ongoing.

Caitlyn then opened the floor for this committee to discuss their support of ESD’s engagement with the legislature on funding to help with pandemic era backlog work.

- Bob Battles expressed support of these requests and noted the value in addressing these backlog concerns.
 - Julia Gorton also expressed support and asked what type of increase the requested \$21 million would provide to the current administrative or operating budget.
 - Answer: the amount fills the gap created in the budget due to the significant drop off in federal funding, and the exact number can be provided after the meeting.
 - Sybill Hyppolite asked how quickly the issue of overpayments might get under control if this funding is approved.
 - Answer: the proposal put forward for the overpayment relief team, if funded in full, was a 9-month work queue. This would have a ramp up and ramp down, and an assumed 6 months of core work. The total amount of time for this work would be scaled based on the level of investment.
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- Bob Battles made a motion in support of the budget requests. The motion was seconded by Sybill Hyppolite. The committee reached a consensus in support of ESD’s funding asks.

Other UI-Related Legislation – update

Scott Michael, Legal Services Manager provided updates on the following legislation:

- SHB 1106 – Concerning qualifications for unemployment insurance when an individual voluntarily leaves work.
 - It passed out of policy committee, and is now on second reading on the house floor.

- SHB 1458 – Concerning unemployment insurance benefits for apprenticeship program participants.
 - The original version which was discussed at the last meeting included a provision that would waive the waiting week for those participating in apprenticeships. That substitute version has been introduced and passed out of committee that cut out the waiting week waiver. So, what is left of the bill is a study group to report and analyze the barriers that apprentices face when filing unemployment claims. That has passed out of committee and is moving forward.
 - SHB 1095 / SSB 5109 – Two companion bills that would create a separate, unemployment insurance program for primarily undocumented workers.
 - They've both passed out of their respective policy committee, but neither version was scheduled for a hearing in the fiscal committees this week. Given that today is fiscal cut off, it is very likely that both of these bills are dead and we'll have to wait for next year to see if they can get through policy and fiscal, as this would be a separately state funded program for both administration and benefits.
 - SHB 1570 – Concerning social insurance programs applicable to transportation network companies and drivers.
 - This has passed out of policy committee, and it also passed out of fiscal committee this week.
 - This would formally bring transportation network companies and their drivers into the unemployment insurance system.
 - There was a substitute version passed that affects only the paid family medical leave portion of the bill, and not the UI portion.
- Julia Gorton asked a question regarding SHB 1458 and the work group to be created on apprenticeships – will it be this committee or will it be a separate group?
- Answer: a separate group, but if any members here are interested in being involved in that group, ESD would be willing to consider those applications, and will also be providing updates on the progress made by the apprenticeship work group.
 - Bob Battles followed up on Julia's question and added a request that this group be consulted on the apprenticeship work group.
 - Answer: ESD would be happy to do so.
- SSB 5176 – Concerning unemployment insurance benefits for officers of employee-owned cooperatives.
 - This has passed out of the senate unanimously, nothing has changed in this bill since the last meeting.
 - HB 1712 / SB 5621 – Workers dislocated by closure of finfish aquaculture facilities
 - DNR issued order in late 2022 ceasing the practice of leasing state lands to all finfish aquaculture facilities; workers who lost their jobs due to this order automatically count as “dislocated workers” for purposes of access to training benefits.
 - Passed out of House and Senate policy committees February 13 and February 14.
 - SSB 5156 – Concerning farm internship program
 - In 2020, the Legislature created a pilot farm internship program and exempted the farm interns from unemployment insurance coverage. Program and exemption were scheduled to sunset at the end of 2025.

- SSB 5156 makes the pilot program permanent and removes the sunset from the program and the exemption.
- Senate passed bill 49-0 on January 25.
- HB 1684 – Allowing tribes to not report SOC codes or job titles on quarterly reports
 - Allows federally recognized tribes to choose not to report job titles or SOC codes for their employees on their quarterly tax reports.
 - Passed out of House Committee on Labor and Workplace Standards February 14.

Rulemaking update

Scott Michael provided the following rulemaking updates:

- President Biden has announced that federal COVID-19 state of emergency is ending Thursday, May 11, 2023.
- Provisions related to job separations, suitable work, and availability for work will be impacted by the end of the federal public health emergency.
- Rulemaking is being considered on the impact of when a public health emergency begins and ends mid-week.
- Current consideration:
 - If issue is judged on a week-by-week basis (e.g. availability, work search), then ESD will consider a public health emergency to exist for the whole week if one of the days of that week has a public health emergency in effect.
 - If issue is judged on a specific event happening on a particular day (e.g. job separation, work refusal), then ESD will look to see if a public health emergency existed on the day that event occurred.

-Julia Gorton asked for a summary of what the changes will be in those areas.

Answer:

- The statutory change allowed high risk individuals to limit their availability to things that can be done from home.
- With regards to job separations, there were some special quits allowed – one healthcare workers and two high risk individuals.
- There are also special rules regarding people involved in direct medical care, who need to go into isolation and quarantine as a result of exposure at work.
- In regard to suitable work that exists all your-round whether emergency or not, is the potential impact of that work on your personal health. However, during a public health emergency, we also factor in the potential of health risks to people who live in your household.

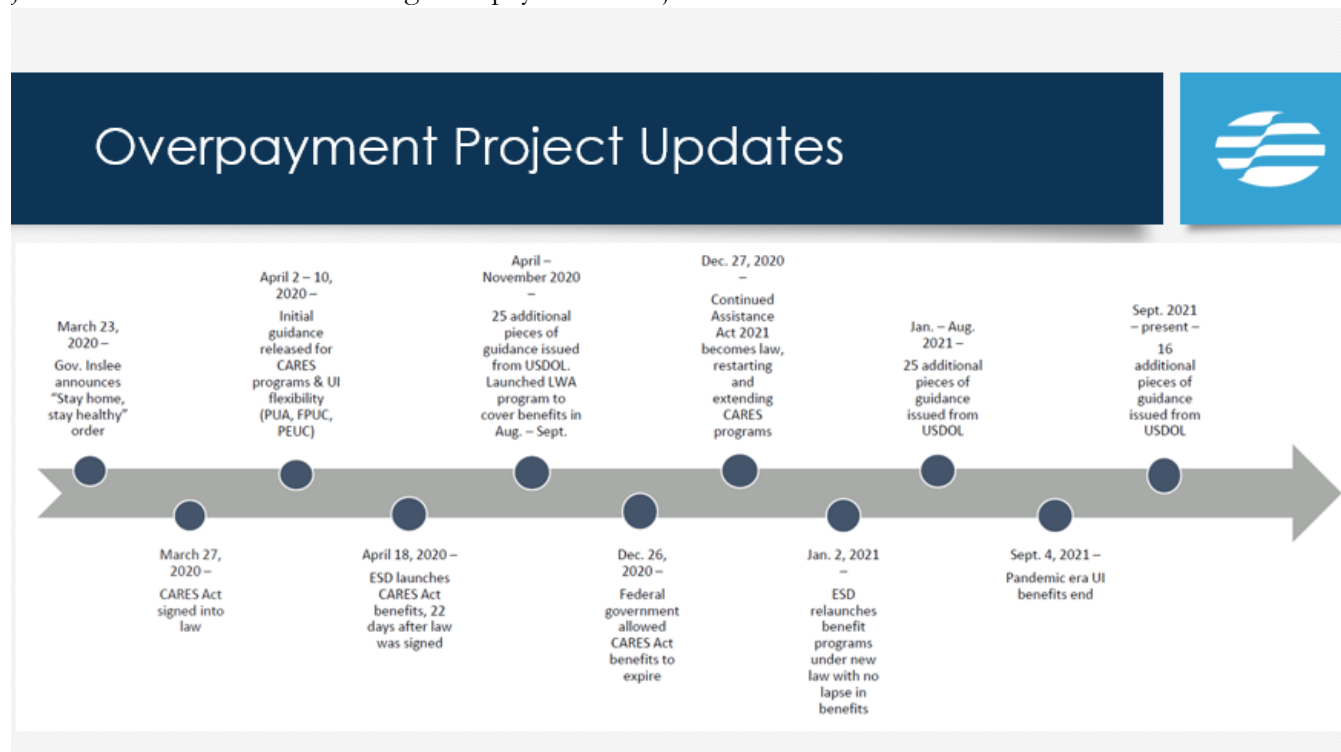
-Bob Battles asked for clarification regarding claims active on Thursday May 11th – will those benefits be carried through the end of the week?

- Answer: if you are a high risk individual limited to telework that particular week, you will be allowed to limit your availability to telework through the end of the week, but not the following week.
 - The number of people that this will impact is expected to be minimal.

- The goal is for this to be a permanent rule. For those who have signed up for ESD’s rulemaking email updates, you’ll receive information on the draft rule.

Pandemic Era Overpayments – update

JR Richards shared the following Overpayments Project timeline:



JR also provided the following information on the overpayments project:

Providing overpayment relief is ESD’s highest priority project

Coverage – Pandemic Era Benefits Feb 2, 2020 – Sept 4, 2021

Q1 2023 start processing automated waivers

- Six scenarios already authorized by USDOL for federally funded benefits
- Claimants not required to take any action – ESD completes entire process
- Claimants will be notified overpayment have been waived

Q1 start charging off overpayments less than \$1,000

- Federal and/or state funded benefits
- Claimants not required to request – ESD completes entire process
- Claimants will be notified charge-off is complete

Q1 2023 start accepting individual waiver requests

- Previous waiver looked only at financial ability to pay
- Newly expanded criteria take lived experience into account
- Web-based fillable application form linked from ESD.WA.GOV

ESD is on track to begin doing this work by the end of March.

- Anne Paxton asked about whether there is an application process for the blanket waivers.
 - Answer: US DOL authorized 6 scenarios that can receive a waiver. The goal is for those who fall into one of these 6 scenarios to receive a blanket waiver without having to complete an application. The individual waivers are for claimants who do not fall into one of those scenarios.
 - Overpayments of less than \$1,000 will be automatically waived so long as the claimant is not found to be at fault.
 - The web-based fillable application form will be available by the end of March.

Future Agenda Topics

JR Richards reviewed the following future agenda items:

- Legislative Session Updates
- Rulemaking Updates
- Overpayments Project Updates
- Appeals Backlog Updates
- Other – Committee members were invited to add other topics during this meeting or can reach out to ESD.

Action Items

None

Public Comments

Comment from Lexy Salas with Working Washington

“I have 2 questions. First, are there any plans to at least fold collections, activity from people? Because I know a few claimants who really do feel like these waivers would apply to their situation, and they've asked ESD about collections, but they are still being made to pay \$200 or more a month in repayment. So I just wanted to know more about that, or for the people who have paid off their overpayments, who would qualify - where do we see that in the timeline of getting refunds for that?”

My second question is about more clarity around the \$1,000 threshold for over payment amounts. Are all overpayments under \$1,000 going to be waived, or are they still going through the same process of identification, and if they're still going through the same process of identification, I'm confused about the \$1,000 - if someone is found out fault, they would still pay it off, and so what does the \$1,000 threshold really mean?”

JR Richards provided the following information in her response:

- While we believe that it's likely that many overpayments that happened during the pandemic era will qualify, it does not mean that all will, and at this point we could not say which overpayments will and won't qualify.
- Therefore it would be inappropriate for us to turn off all - and it's not collection activity, because we're not actively doing collections, meaning staff is not reaching out and calling claimants and utilizing the full breadth of collection options available.
- Claimants do receive a letter that is automated. Those go out in the system. We don't have the ability within the system to turn them off for some and not all, so we would have to turn them off for everyone, or we can't turn them off for anyone.
 - Turning them off would mean doing so even for those that have overpayments that are outside of the pandemic era, who actually owe.
 - It would mean if you did owe that overpayment and you did not qualify for the overpayment waiver, then we would be taking away some of your rights to make a good decision if you did not receive notification that it existed.
- There are things we can't waive like in cases where it's regular UI benefits versus pandemic era and there is state interest, what we wouldn't do is put claimants into a position where they're not receiving that, and they're not able to make the best decision for them when it comes to potential interest, especially on the UI side.
- So yes, do they receive letters that there's an overpayment, that is automated in the system.
- Are we utilizing all of the tools that we have to collect? No, we are not. There are claimants who do reach out and because they're unsure, they do set up a payment plan, because just in case they're not eligible, they want to get started on it, which ties into refunds.
- If you qualify for a pandemic era overpayment, then refunds will be part of this process, both with the blanket waivers and with the individual waivers.

Comment from Kristen:

"Hi there, my name is Kristen, obviously, and I appreciate the opportunity to speak here today. I was on a previous meeting as well. Didn't even know that these meetings occurred, that people could come which I think would be a great thing to get out there publicly, so more people would know about this, my self definitely affected by these quote overpayments, and I am going to continue to be a part of this and pressure and find out what's going on, because so many of us were destroyed financially because of this. I had to eat up my 401k because of this, and so I'm not going to be letting this rest lightly and just think that there's going to be an easy quick yes or no, and especially not a no.

I had an experience during the pandemic and when I got the acceptance call, which was an hour long phone call, where they qualified me, and then, after an hour long phone call a few weeks later, decided to disqualify me. After that all the subsequent phone calls I made and people I talked to, everybody told me something different, so when I hear you talking about getting staff training, or people are doing these one-on-ones to work with people and see if they qualify for a waiver, my fear is, that you're gonna have somebody named Bob say 'oh sure you qualify', or 'you're fine'. And then Carol's gonna say 'oh, no you don't' and they tell you something entirely different. And I went through this more times than I can count. The inconsistency of the entire thing, but the inconsistency in the knowledge of the staff.

I'm still waiting for a call back from a manager who said I was gonna call me back, and I never heard back. I'm still waiting for my appeals court date, which I filed the fall of 2020, and I 100% qualified for this. I mean, really the root cause of all of this is that they locked everybody down, which crashed the job market. And if we go and look at the lockdown thing, actually, if you do your due diligence legally, it wasn't legal, and there's now a big major lawsuit against the government, and if you know your law, you know your constitution, you can't actually do that. That did create the subsequent job market crash, the economic crash which they knew was gonna happen.

And now we're in this situation, and we're putting it on the people - myself and others - to beg for help. That's wrong. So we need to stop playing games with people's lives here. I know you need to pull out and find out who is fraudulent in the sense of somebody playing games with unemployment and trying to get rich off of it, but I'm gonna guess with the pandemic, the idea around that probably is very few were doing that. So I'm gonna continue to be a part and put the pressure and make sure you guys know that this isn't okay to play around with our lives like this. And we need to make sure myself and others are fully taken care of.”

JR thanked Kristen for joining today and for sharing her public comment, and reminded meeting participants that if they would like their comments captured in the meeting minutes to please email them to Camille.galeno@esd.wa.gov

Adjourned

JR Richards thanked everyone for joining today, and ended the meeting.

Next meeting

March 31, 2023 from 2:00 p.m. to 3:00 p.m. via Zoom.

Addendum 1

Agenda

Unemployment Insurance Advisory Committee (UIAC)

Friday, February 24, [2023](#) | 2:00 pm - 3:00 pm | Via Zoom | 212 Maple Park Ave SE, Olympia, WA 98501

Time	Topic
2:00 pm	Welcome from JR Richards, Unemployment Insurance Customer Support (UICS) Director, Employment Security Department (ESD) <ul style="list-style-type: none">o Agenda Overview
2:05 pm	Approval of January 27, 2023 Meeting Minutes
2:10 pm	Agency Request Legislation - Update - Scott Michael, Legal Services Manager, ESD
2:25 pm	Rulemaking Update - Scott Michael, Legal Services Manager, ESD
2:40 pm	Overpayment Project Update - JR Richards, Unemployment Insurance Customer Support (UICS) Director, ESD
2:50 pm	Future Agenda Topics
2:55 pm	Public Comment
3:00 pm	Adjourn

For more information, please visit the UIAC website at <https://esd.wa.gov/newsroom/UIAC>

RECORDING DISCLAIMER:

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Addendum II

Unemployment Insurance Advisory Committee**Meeting Dates – 2023**

Date	Location	Host	Notes
Jan 27, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
Feb 24, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
Mar 31, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
Apr 28, 2023 2:00 PM	*Zoom	ESD	^Recorded meeting
May 10, 2023 10:00 AM	*Zoom	ESD	^Recorded meeting
June 14, 2023 10:00 AM	*Zoom	ESD	^Recorded meeting