

Improving Unemployment Compensation for Women in Pennsylvania: HB 2400 Would Expand Coverage and Qualify PA for \$273 Million in Federal Funds

July 2010

Since the recession began in 2008, the unemployment compensation (UC) program has played a vital role in supporting unemployed Pennsylvanians and their communities across the state. However, fewer than six in ten jobless Pennsylvanians receive UC benefits.

The American Recovery and Reinvestment Act (ARRA) of 2009 provides incentives to states to reform their UC systems, especially for low-wage workers and women. Thirty-nine states already have enacted reforms that qualify them for federal funds, including 32 states that have qualified for full funding.¹

Pennsylvania has an opportunity to improve UC coverage for vulnerable workers and their families – and receive \$273 million in federal funds for doing so – by enacting HB 2400.

- *Unemployment Compensation is critically important to Pennsylvanians.*
 - About 20% of the Pennsylvania labor force has received UC benefits during the recession, totaling \$15 billion in benefits.² Even so, in 2008, only 58% of jobless workers in Pennsylvania received UC benefits.³
 - In 2009, overall unemployment in Pennsylvania was 7.9%; 8.8% among men and 6.9% among women.⁴ However, unemployment among some groups of women was substantially higher than overall unemployment. Among Hispanic women, unemployment was 12.6%;⁵ among Black women, 11.0%;⁶ and among women who head families, 11.1%.⁷ In May 2010, Pennsylvania's overall unemployment rate was 9.1%.⁸
- *The ARRA provides incentives to states for enacting certain reforms to their UC systems.*
 - States can get 1/3 of the money allocated to them by enacting an “alternative base period” that gives workers credit for their most recent earnings.
 - States can receive the remaining 2/3 by enacting two additional reforms, including: providing benefits to workers who are only available for part-time work and workers who must leave a job for compelling family reasons (domestic violence/sexual assault; illness or disability of a family member; or relocation of a spouse).
 - Enactment of HB 2400 would make Pennsylvania eligible for full federal funding.
- *HB 2400 would expand UC coverage for low-wage workers by crediting their most recent earnings (the “alternative base period”).*
 - To qualify for UC benefits, a claimant must have earned a specified amount during the “base year” prior to job termination.

- In Pennsylvania, up to six months of earnings may be disregarded in determining eligibility and benefit levels. The “base year” is defined as the first four of the last five completed calendar quarters. For example, if a worker applied for UC on March 8, 2010, her earnings from Jan-March 8 would not count (not a completed quarter). Her earnings from Oct-December 2009 also would not count, since only the first four of the last five completed quarters are counted. This particularly disadvantages low-wage workers, the majority of whom are women.
 - With the “alternative base period,” instead of waiting – without any income – to reapply in a later quarter, her eligibility would be immediately reexamined crediting the most recent four completed quarters.
 - According to Pennsylvania’s Secretary of Labor and Industry, about 30,000 unemployed workers per year would benefit from the alternative base period.⁹
- *HB 2400 would provide benefits to workers who are only available for part-time work.*
- Coverage for part-time workers is especially important to women, who comprise over two-thirds of the part-time workforce nationally.
 - Under current Pennsylvania law, a part-time worker can be disqualified from benefits for refusing an offer of full-time employment. HB 2400 would eliminate this disqualification. However, consistent with ARRA, HB 2400 would require that the claimant accept a job of at least 20 hours per week or the average number of hours per week worked by the claimant in her base year.
- *HB 2400 would make it easier for workers who leave their job for compelling family reasons to qualify for UC.*
- In Pennsylvania the compelling family reasons for leaving a job are already recognized in case law but not in statute. HB 2400 makes relatively small changes to conform with ARRA, but all of these changes eliminate barriers and make it easier for claimants to qualify for UC.
 - Domestic Violence and Sexual Assault: Pennsylvania decisions recognize domestic violence as good cause for leaving a job. But, for example, in one case the court required the Board to consider whether the claimant could have reasonably pursued any alternatives to relocation, a requirement that is likely not in compliance with ARRA. HB 2400 will ensure that Pennsylvania has a law that is clear and uniform across the state and does not require victims of domestic violence or sexual assault to prove additional facts.
 - Illness or disability: Pennsylvania decisional law permits UC benefits to be paid in cases where a person quits because of illness or disability in the family. However, the cases require such a claimant to “*have no choice* except to leave,” to make “*reasonable efforts* to maintain the employment relationship,” to give the employer “*an opportunity to accommodate*” the claimant, and to have “*explored alternative options*.” These additional restrictions are probably inconsistent with ARRA and would not be part of HB 2400.

- Relocation of a spouse: Pennsylvania decisional law allows a following spouse to receive UC benefits, but imposes a number of requirements. The following spouse must show economic hardship in maintaining two residences or an insurmountable commuting problem; the followed spouse must have conducted an extensive local job search or moved because of circumstances beyond his/her control, not personal preference. Under the ARRA and HB 2400, as long as the claimant can prove that the spouse moved due to a change in the location of the spouse's employment to a place where it is impractical to commute, the following spouse can qualify for UC. HB 2400 will remove much of the burden on the following spouse that exists under current case law.

➤ *The UC Trust Fund Deficit Is Not a Justification for Rejecting HB 2400.*

- Opponents of HB 2400 have pointed to the deficit in the UC Trust Fund as a reason to reject the bill, despite the fact that a \$273 million stimulus payment would follow its enactment. While it is true that the trust fund is in the red, its current insolvency is neither unique to Pennsylvania (35 states were in the red as of April 30, 2010¹⁰) nor relevant to consideration of HB 2400.
- The additional cost of paying the benefits associated with HB 2400 (almost all from the alternative base period) would be an average of \$70 million per year over the next 7 years.¹¹ However, if the state draws down its \$273 million of federal funds as a result of enacting this change, the change would pay for itself for around four years.¹²
- Raising and indexing the taxable wage base is the primary solution for strengthening the Pennsylvania UC system. Currently, Pennsylvania imposes UC taxes on only the first \$8,000 of earnings, an amount that has not changed since 1984. Only eight states have a lower taxable wage base than Pennsylvania, and only seven states have taxable wage bases as low as Pennsylvania's.¹³

¹ National Employment Law Project, *Recovery Act's Unemployment Insurance Modernization Incentives Produce Bipartisan State Reforms in Seven States in 2010* (June 2010) at 1, available at http://nelp.3cdn.net/c7135659bb84727c57_zem6bqp31.pdf.

² *Unemployment Modernization: Public Hearing on House Bill 2400 Before the House Labor Relations Committee*, Pennsylvania House of Representatives (2010) (statement of Sharon M. Dietrich).

³ National Employment Law Project, *State Statistics Chartbook (Northeast)* at 1, available at <http://www.nelp.org/page/-/UI/2008.2.%20Eastern%20States.pdf>.

⁴ U.S. Department of Labor, Bureau of Labor Statistics, "Preliminary 2009 Data on Employment Status by State and Demographic Group," Pennsylvania table, available at <http://www.bls.gov/lau/ptable14full2009.pdf>.

⁵ Ibid.

⁶ Ibid.

⁷ Institute for Women's Policy Research, *The Female Face of Poverty and Economic Insecurity: The Impact of the Recession on Women in Pennsylvania and Pittsburgh MSA* (February 2010), available at <http://www.iwpr.org/pdf/R345PApoverty.pdf>.

⁸ U.S. Department of Labor, Bureau of Labor Statistics, "Regional and State Employment and Unemployment: June 2010," Table 3 (July 20, 2010), available at <http://www.bls.gov/news.release/laus.t03.htm>.

⁹ *Unemployment Modernization: Public Hearing on House Bill 2400 Before the House Labor Relations Committee*, Pennsylvania House of Representatives (2010) (statement of Secretary Sandi Vito, Pennsylvania Department of Labor & Industry).

¹⁰ National Employment Law Project, *Understanding the Unemployment Trust Fund Crisis of 2010* (April 2010) at 2, available at <http://www.nelp.org/page/-/UI/solvencyupdate2010.pdf?nocdn=1>.

¹¹ *Unemployment Modernization: Public Hearing on House Bill 2400 Before the House Labor Relations Committee*, Pennsylvania House of Representatives (2010) (statement of Sharon M. Dietrich).

¹² Ibid.

¹³ Ibid.