

Ensuring Due Process in Unemployment Insurance Determinations

HB 955

Determination, Re-determinations, and Over-payment Notices:

Once an unemployment insurance claimant is approved and payments begin, the claimant is required to submit additional information every week to affirm their unemployment status. Information is also submitted by employers as well as from potential sources of income, such as part time or temporary work. Payments continue throughout this period. In some cases, the additional information submitted leads the Department to conduct a new determination which can result in a change in the weekly payment amount or a conclusion that the claimant was ineligible for benefits. If this re-determination relates to weeks for which the claimant has already been paid, then an overpayment notice is issued and the Secretary of Labor is authorized to collect the funds that were overpaid through a number of different avenues.

Federal law requires that throughout the determination and redetermination process, the claimant is aware of the information the Department is considering and has an opportunity to engage with due process in the consideration and to appeal the decision.

The Problem:

In Maryland, claimants have received overpayment notices indicating that a determination has been made and requiring funds to be paid back—without ever having known that there was a determination process occurring and without the due process opportunity to participate in the determination. State law further requires that when an overpayment notice is sent, there are 30 days to appeal the determination decision.

Maryland Department of Labor has been out of compliance with both federal and state law. Claimants have not been made aware of determination processes, have not had due process rights respected in the determination processes, and have not been able to appeal the determination when they receive the overpayment notice. Funds have been recovered from claimants with no participation and no due process protections. Even today, many Marylanders have no idea why the Department is seizing their tax refunds and beginning collection actions.

The Solution:

HB 955 reiterates federal due process requirements in Maryland state law. It prohibits the Maryland Department of Labor from recovering any funds related to an overpayment until the Department has complied with existing statutes and allowed a claimant due process in the determination and redetermination.