

USE OF PLAIN LANGUAGE BY THE UNEMPLOYMENT INSURANCE AGENCY; OPT OUT OF FEDERAL UNEMPLOYMENT PAYMENTS

House Bill 4434 (H-1) as amended and passed by the House
Sponsor: Rep. Jeff Yarocho
Committee: Workforce, Trades, and Talent
Complete to 6-23-21

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<http://www.house.mi.gov/hfa>

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4434 would amend the Michigan Employment Security Act to require that the Unemployment Insurance Agency (UIA)¹ use *plain language* in all of the following under the act, whether in a print, electronic, or other format:

- Correspondence and documents related to the taxes or reimbursing charges of employers and the benefits of individuals.
- References or citations to UIA-implemented policies or UIA-promulgated rules in documents or correspondence sent to or used by a claimant or employer.

Plain language would mean language that is clear and concise, that avoids complex vocabulary and contradictory statements, and that is based on a fourth-grade reading level.

Under the bill, the UIA would have to include all of the following in any determination or redetermination the UIA provides to a claimant or employer:

- A clear, concise, and factual reason for the determination or redetermination that includes facts specific to the party's claim.
- A summary of the party's right to appeal, including the length of time to file.
- A summary of the party's right to request a reconsideration within one year of the mailing date of the determination or redetermination.
- A summary list of all determinations and redeterminations related to the party's claim, including the outcome, date of issuance, and the deadline for an appeal or request for reconsideration.

The bill would require the UIA to consolidate all determinations or redeterminations related to an issue into one determination or redetermination, as applicable.

Generally, the UIA would have to provide both of the following in the notification it provides to an employer or claimant regarding a denial, modification, or ending of benefits:

- A clear and concise statement of the reason for that determination, including the facts and legal reason for the determination.
- If applicable, the appeal rights that the employer or claimant has regarding the determination.

¹ Although the bill refers to the "unemployment agency," defined elsewhere in the act as the "bureau of worker's and unemployment compensation," that agency is currently known as the Unemployment Insurance Agency, after being most recently renamed by EO 2003-18 (https://www.michigan.gov/formergovernors/0,4584,7-212-96477_57648_21975-76905--,00.html) and most recently transferred to the Department of Labor and Economic Opportunity by EO 2019-13 (https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-499273--,00.html).

Finally, the bill would prohibit the UIA from implementing, or assisting the federal government in implementing, any portion of the federal American Rescue Plan Act of 2021, if doing so would result in a claimant receiving federal pandemic unemployment compensation.

MCL 421.2, 421.11, and 421.32b and proposed MCL 421.32e

HOUSE FLOOR ACTION:

As reported from committee, the bill focused on the plain language requirements. When being read for a third time on the House floor, the bill was amended to opt Michigan out of the federal unemployment programs that are currently set to expire September 6, 2021.² At least 25 states have declared an end to the extended unemployment benefits, with benefits set to expire in those states on dates ranging from June 12 to July 3. If the bill is given immediate effect, passed by the Senate, and signed by the governor, the opt-out would be effective on the date the bill is signed.

BRIEF DISCUSSION:

Supporters of the bill pointed to the struggles many Michiganders have faced over the last year in navigating the UIA system and receiving unemployment payments. The COVID-19 pandemic resulted in record unemployment, with a reported 5 million claims filed in Michigan in the past year. However, the scale of the need only revealed a problem that has been systemic with the agency: the forms, instructions, and communications are written using terms and phrases that average people do not understand. The unemployment system in Michigan is intended to be a “pro se” system, where a claimant can represent him or herself without the need for a lawyer. The bill is intended to bring that goal closer to a reality.

A representative of the UIA indicated that readability of its materials is an ongoing problem and one they know needs to be addressed. However, they expressed “major concerns” over the H-1 substitute for the bill,³ stating that the most significant concern is the necessity for case-by-case consideration on each issue (instead of system adjudication) because of the level of detail prescribed in the H-1 substitute. This would result in backlogs, increasing delays for claimants or increased confusion.

The UIA indicated that it is working on two projects to address the confusion and delays that have been exacerbated by the COVID-19 pandemic and the attendant increased demand for unemployment payments. The first is with a nonprofit group that creates simple systems for delivering government programs; the group will be completely retooling the UIA customer experience. The second will be with a private consulting firm focusing on plain language communications, user-centric website design, and revised status definitions.

² House Fiscal Agency fiscal brief on The American Rescue Plan of 2021 (see pg. 4):
https://www.house.mi.gov/hfa/PDF/Alpha/Fical_Brief_American_Rescue_Plan_Act_of_2021_Apr14.pdf

³ Written testimony submitted by the Department of Labor and Economic Opportunity:
[https://www.house.mi.gov/MHRPublic/CommitteeDoc.aspx?uri=2021_2022_session/committee/house/standing/workforce_trades_and_talent/meetings/2021-06-10-1/documents/testimony/Stephanie%20Glidden-Written%20Testimony%20on%20HB%204434%20\(H-1\)%206-10-21.pdf](https://www.house.mi.gov/MHRPublic/CommitteeDoc.aspx?uri=2021_2022_session/committee/house/standing/workforce_trades_and_talent/meetings/2021-06-10-1/documents/testimony/Stephanie%20Glidden-Written%20Testimony%20on%20HB%204434%20(H-1)%206-10-21.pdf)

FISCAL IMPACT:

A fiscal analysis is in progress.

POSITIONS:

A representative of the Workers' Rights Clinic at the University of Michigan Law School testified in support of the bill. (5-12-21)

The following entities indicated support for the bill:

Michigan League for Public Policy (5-12-21)

Michigan Laborers Union (5-12-21)

Michigan Health and Hospital Association (6-10-21)

The Unemployment Insurance Agency indicated opposition to the H-1 substitute for the bill. (6-10-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.