

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

Winter 2021



### A Review of the Unemployment Insurance Agency during COVID-19 By Cory Savino, Fiscal Analyst

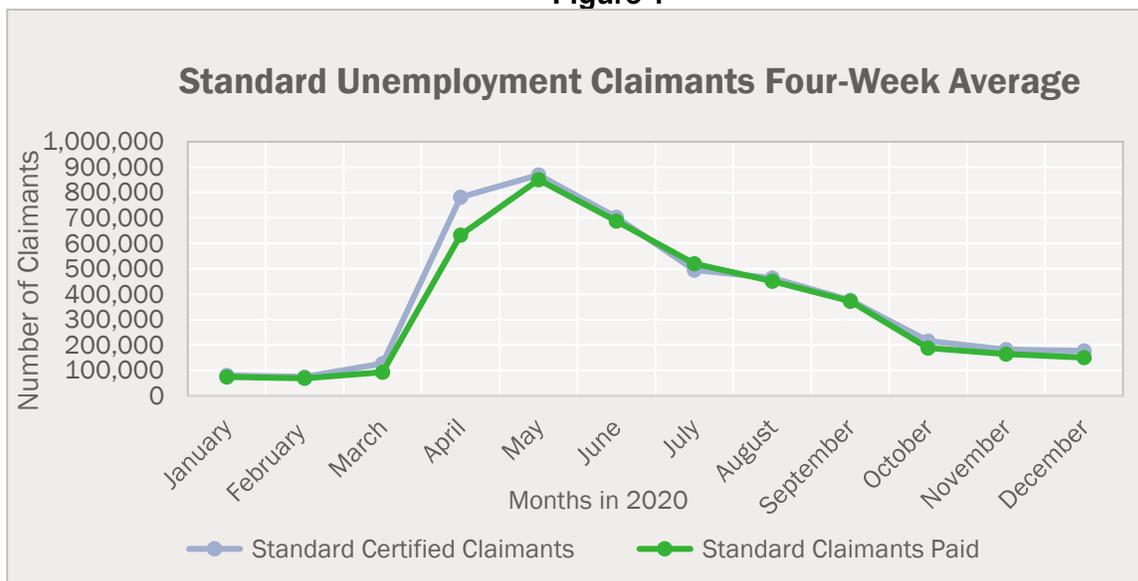
#### Introduction

Between the coronavirus disease 2019 (COVID-19) pandemic, associated executive orders, statutory changes, and the Federal expansion of unemployment benefits, the Michigan Unemployment Insurance Agency (UIA) has experienced an unprecedented number of claims filed for unemployment insurance. This paper will review briefly the status of the Michigan unemployment insurance system, the State's changes to the UIA, the expansion under House Resolution (HR) 6201, the Lost Wages Assistance (LWA) Program, the recent Federal COVID-19 package, and the status of the State's Unemployment Trust Fund.

#### Status of the Michigan Unemployment System

After the identification of the first cases of COVID-19 and the declaration of a state of emergency on March 10, 2020, the UIA experienced significant increases in initial claims filed for unemployment insurance. For the week ending March 14, 2020, the UIA received 5,472 initial claim filings. This quickly increased to hundreds of thousands per week in initial claims. In total, from March 15, 2020, to April 11, 2020, the Michigan UIA received around 1.1 million in initial claim filings. This period also included the expansion of eligible unemployment insurance recipients under the HR 6201, which meant that Federal benefits covered more recipients with additional payments. The number of standard unemployment claimants peaked in May 2020 before declining as the economy began to reopen. In 2020, over 4.3 million claims were created; of this amount, 1.8 million were standard unemployment claims, 1.7 million were claims made by newly eligible claimants under HR 6201, 600,000 were for extended benefits, and 200,000 were for the work-share program. [Figure 1](#) shows the four week-average number of claimants each month for 2020.

Figure 1



Source: Michigan Unemployment Insurance Agency

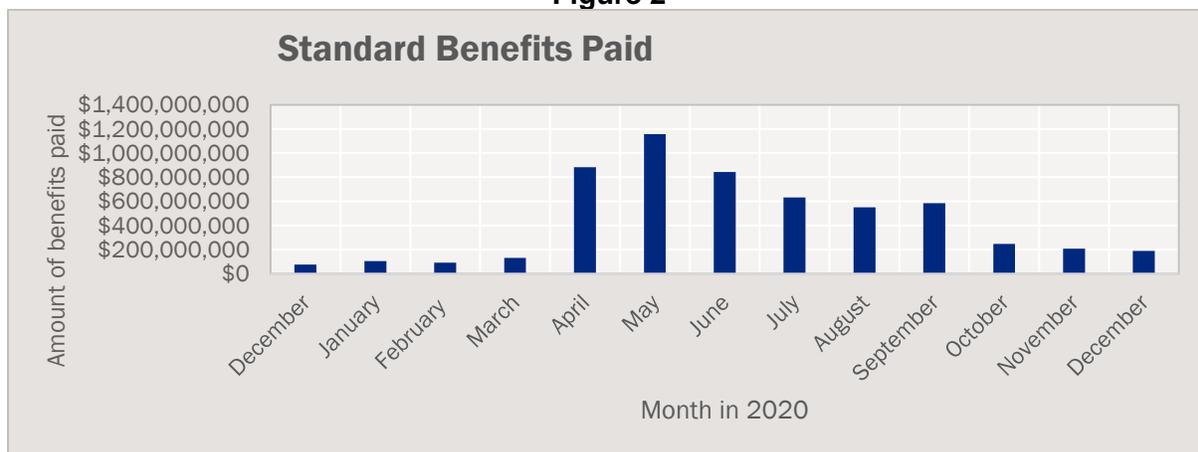


Since many individuals filed for unemployment insurance for the first time, and under changing qualifications, the UIA experienced increased demands to complete initial filings over the phone, respond to questions, and review claims. In response, the UIA increased staffing at the call resource center, from 130 employees in the week ending March 14, 2020, to 500 employees by the week ending April 10, 2020. Further, additional Federal revenue for unemployment insurance administration was received and additional money was appropriated from the Federal Coronavirus Relief Fund in Public Act (PA) 150 of 2020 (Senate Bill 745). This allowed the UIA to have around 3,000 employees for customer service needs. Figure 1 shows that in April 2020 there was a significant gap between the number of claimants who were certified to receive benefits and number of claimants who were paid that month. As the UIA increased staff support in the summer months, the gap narrowed.

To receive State unemployment insurance, an individual must show a history of work and earnings for a full one-year period (the base period) before the full quarter an individual applies for unemployment insurance. Additionally, the individual must have earned at least \$3,744 during one quarter of the base period, which is an average of 30 hours a week at the State minimum wage for one quarter. The weekly benefit for an eligible worker is calculated at 4.1% of what was earned during the highest quarter of the base period, with an additional \$6 per week per dependent, for a maximum benefit of up to \$362 per week. This means that, under current eligibility criteria, for every 100,000 additional individuals who receive benefits, the State will pay out \$31.5 million to \$36.5 million in weekly benefits from the Unemployment Trust Fund.

In 2020, the Michigan UIA paid out over \$28.1 billion in unemployment insurance benefits with most these benefits paid for with Federal dollars. Out of that total, \$20.9 billion was from the Federal programs created in HR 6201. After that, \$5.3 billion was paid out from the Michigan Unemployment Trust Fund, \$1.6 billion from the LWA, and \$300.0 million was from Federal extended benefits. Figure 2 shows the amount of standard benefits paid by the Michigan Unemployment Trust Fund each month for 2020. Most payouts from the Trust Fund occurred in the first six month of the pandemic. After the first six-month period of standard benefits, extended benefits took effect (which were supported with Federal dollars). This resulted in fewer payouts from the Michigan Unemployment Trust Fund in the fall and winter.

**Figure 2**



Source: Michigan Unemployment Insurance Agency

## **State Action**

Executive Order (EO) 2020-10 expanded the qualification for benefits to individuals who had left work involuntarily for medical reasons or had been designated unemployed because of a leave of absence for a COVID-19-associated reason. The EO expanded the number of weeks for which a person could draw unemployment, from 20 to 26 weeks, and allowed individuals to file for unemployment within 28 days of the last day of work and be considered to have filed on time. The EO also expanded eligibility for shared-work plans. Finally, the Order assessed the charge for State unemployment insurance taxes to the employer's nonchargeable account if an individual became unemployed because an EO required his or her employer to close or limit operations<sup>1</sup>. This nonchargeable rate is capped at 1.0% for the unemployment insurance tax rate on the first \$9,000 of an employee's wages instead of what could have been as high as 6.3%. The changes in EO 2020-10 were extended in subsequent orders, including EOs 2020-24, 2020-57, and 2020-76.

On October 2, 2020, the Michigan Supreme Court issued its ruling on legal challenges to the Governor's authority to issue emergency executive orders under the Emergency Management Act and Public Act (PA) 302 of 1945.<sup>2</sup> Following this, PA 229 of 2020 was enacted, which codified provisions of some of the EOs into law. These included assessing the charges on claimants to the employer's nonchargeable account, expanding the number of eligible weeks from 20 to 26 weeks, allowing individuals to be considered to have left work involuntarily for COVID-19-related reasons, and the changes made to the shared-work program. These changes were set to expire on December 31, 2020.

Senate Bill 604 was enacted as PA 258 of 2020, which (in part) extended the expansion of benefits from December 31, 2020, to March 31, 2021. Senate Bill 604 included a provision that the bill's expansion of eligible weeks would be implemented only if \$220.0 million was deposited into the Unemployment Compensation Fund under Senate Bill 748. Senate Bill 748 was ordered enrolled and would have deposited \$220.0 million General Fund/General Purpose into the Michigan Unemployment Compensation Fund after March 1, 2021; however, Governor Whitmer vetoed the line item when the supplemental was signed into law as PA 257 of 2020.

## **HR 6201**

HR 6201 included an expansion of eligible recipients and benefits for individuals who were unemployed because of COVID-19. The Act provided an additional \$600 per week to all unemployment claimants for up to four months, from weeks ending March 31, 2020, to July 31, 2020. This was supported entirely by the Federal Pandemic Unemployment Compensation (FPUC) Fund. The State made the combined \$600 and State base payment to the claimant, and the \$600 portion was reimbursed by the FPUC Fund. HR 6201 included extended benefits for an additional 13 weeks (in addition to the 26 weeks of benefits provided under State changes). The Federal Unemployment Insurance Fund paid for these extended benefit weeks. On July 31, 2020, the additional \$600 in additional benefits ended.

Finally, HR 6201 expanded eligibility for unemployment insurance benefits to self-employed individuals, gig workers, independent contractors, freelancers, part-time workers, and furloughed employees who were no longer able to work because their employers had closed

or reduced hours. Individuals who did not qualify for unemployment benefits under State law, but did under the eligibility expansion, received at least 50% of the State average payouts as the base weekly allotment with additional amounts if the individual made more to qualify. The UIA determined \$160 per week to be the minimum base pay for these eligible individuals. The FPUC Fund also supported the base payment for these newly eligible individuals. The newly eligible claimants were allowed a maximum eligibility period of 39 weeks ending on December 26, 2020.

The Federal Families First Coronavirus Response Act allocated \$1.0 billion for distribution to individual state unemployment trust funds for emergency administration. Of the total, \$500.0 million was distributed within 60 days of the Act's passage and the remaining \$500.0 million was distributed when state unemployment benefits increased 10% over the same quarter from the previous year. The distribution was based on the proportion of unemployment insurance tax revenue generated for each state in the previous 60 days of the Act. On April 6, 2020, the UIA received the first \$14,554,800 for emergency administration; the UIA received the second \$14,554,800 in July.

### **Lost Wages Assistance Program**

Following the expiration of the additional \$600 in FPUC payments, President Donald Trump signed a Presidential Memorandum on August 8, 2020, which created the LWA Program. The program used \$44.0 billion from the Federal Emergency Management Agency's Disaster Relief Fund to provide extra unemployment compensation payments for states. The LWA Program provided up to \$300 in additional Federal unemployment insurance payments. The State of Michigan applied for and was awarded LWA benefits and an additional \$69.3 million in administrative support. PA 150 of 2020 deposited the award into the Michigan Unemployment Compensation Fund. The State processed and distributed the \$300 weekly payments automatically to already-certified claimants. The State paid out \$1.6 billion in LWA payments, over four weeks, before the entire \$44.0 billion Federal amount was exhausted.

### **December 2020 Federal Relief**

A fifth Federal COVID-19 relief act was passed by Congress and was signed on December 28, 2020. This Act included temporary extensions of the Unemployment Compensation programs established in HR 6201 to March 14, 2021, with benefits extended through April 5, 2021, or when the maximum number of weeks is met, whichever occurs first. The Pandemic Unemployment Assistance program was modified to extend the eligible duration of maximum benefit weeks from 39 to 50 weeks. Within 30 days after the bill's enactment, states were required to verify the identity of applicants and applicants must recertify weekly. Applicants must document former employment starting January 31; however, individuals who otherwise are eligible for benefits may not have them terminated because of a failure to submit past weekly benefit recertifications. The Federal Pandemic Unemployment Compensation amount is set at \$300 per week, beginning December 26, 2020, and includes recipients of Short-Time Compensation. The maximum duration of Pandemic Emergency Unemployment Compensation was extended, from 13 to 24 weeks.

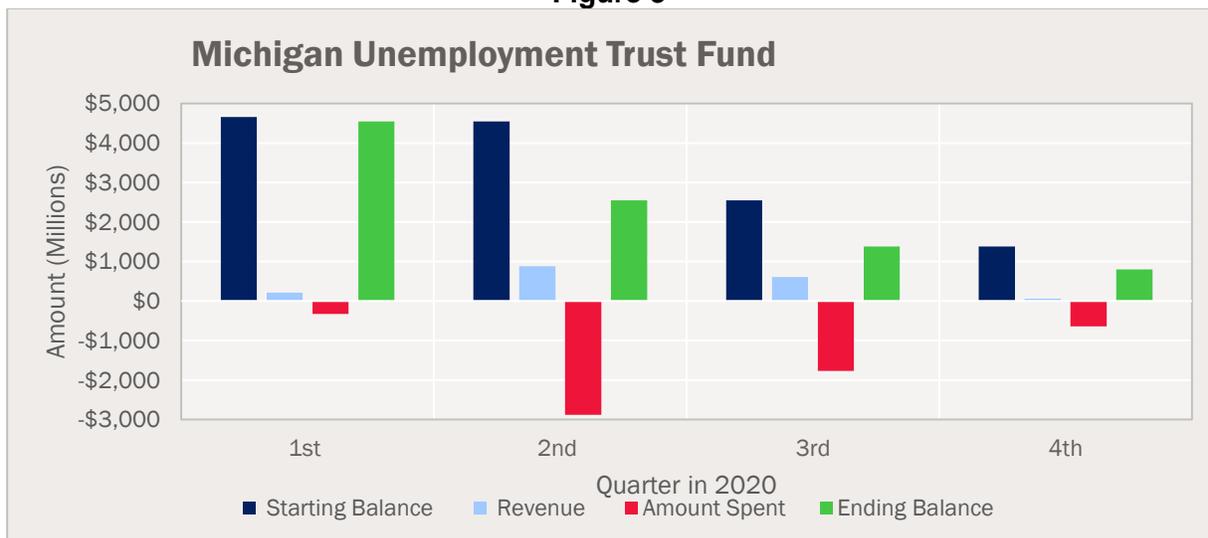


The Act extended several provisions from HR 6201, including the suspension of state trust fund loan interest accrual and payments. The State of Michigan does not currently have any Federal Trust Fund loans. Also, the Act extended unemployment relief for governments and nonprofits, allowed flexibility for staffing of State UIA's, and provided Federal funding for the first week of State benefits, with the amount reduced from 100% to 50%. The Act included a new requirement that states monitor claimants for refusal to accept job offers or to return to work. Also, the Act allowed states to add an additional \$100 in benefits to recipients who earned at least \$5,000 of self-employment income in the most recent taxable year provided they have documentation. Finally, the Act allowed states to waive a requirement that claimants repay incorrectly awarded benefits. The UIA has implemented this Act.

### State Unemployment Trust Fund

At the beginning of 2020, the Michigan Unemployment Trust Fund had a balance of over \$4.5 billion, which was the third-highest trust fund balance in the country with the State only subject to pay for the standard State benefits. The balance of the Fund declined significantly in the first few months of the pandemic because of lockdowns that closed many businesses. As the State reopened major industries, the number of standard benefit claimants declined significantly, which preserved the Trust Fund's balance over the summer. In September, those standard benefit claimants who still were eligible for unemployment began receiving extended benefits after 26 weeks, which were funded with Federal dollars. This further slowed down the decreases to the Michigan Unemployment Trust Fund. As of December 2020, the Fund had a balance under \$750.0 million dollars. Figure 3 shows the balance of the Michigan Unemployment Trust Fund over the last four quarters.

**Figure 3**



Source: Michigan Unemployment Insurance Agency

The Michigan Employment Security Act specifies that if the Michigan Unemployment Trust Fund has a balance above \$2.5 billion and is projected to remain above that amount for the next year, the employee wages to which the unemployment insurance tax is applied drop from the first \$9,500 of an employee's wages to the first \$9,000. This reduced amount has been in



effect since 2017. Since the balance of the Trust Fund has been below \$2.5 billion since July, the employer's unemployment insurance tax rate is set to be applied on the first \$9,500 of employee wages in 2021. This means that an employer could pay an additional \$5 to \$50 per employee depending on the business's chargeable account. If the Fund becomes insolvent, Michigan would have to secure loans from the Federal Trust Fund to support the shortfall, which would have to be paid back with an even higher unemployment insurance tax rate applied on employee wages.

Over the first three weeks of January 2021, Michigan averaged 185,000 claimants per week. If the number of weekly claimants continues at this rate or is reduced, the Michigan Unemployment Trust Fund will remain solvent through at least the next quarter. Since the unemployment insurance tax is applied on the first \$9,500 of an employee's wages, the Michigan Unemployment Trust Fund typically generates the most revenue in the first two quarters of the year. In 2020, the Trust Fund generated just under \$1.0 billion in revenue over the first and second quarters. The first two quarters of 2021 could generate more revenue under the increased tax. Given this, the Fund likely will remain solvent; however, if there is an unexpected increase in claims or additional closures, the Fund could become insolvent.

### **Conclusion**

Because of the COVID-19 pandemic, State changes, and Federal action, the UIA has experienced an unprecedented increase in individuals' receiving unemployment benefits for both the standard State payments and the expanded Federal benefits. The UIA increased staff and received additional Federal dollars to handle this increased activity. The Michigan Unemployment Trust Fund has a sufficient balance to meet the current need through the next quarter; however, the Fund balance could be at risk if claims increased again or additional closures were implemented. At this time, it is unknown how long the increased level of payouts will continue.

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<sup>1</sup> The State unemployment insurance tax rate is based on three components: the nonchargeable account, the chargeable account, and the obligated assessment ratios. The nonchargeable account starts at 1.0% and decreases after years of a business not being assessed for an employee layoff, the chargeable account is based on the number of employee laid off by the business, and the obligated business ratio is based on the previous amounts owed by the business.

<sup>2</sup> *In re Certified Question from the US District Court, Western District of Michigan (Midwest Institute of Health, PLLC v. Governor)*, Docket No. 161492.