



COMMONWEALTH of VIRGINIA
Virginia Employment Commission

Ellen Marie Hess
Commissioner

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July 16, 2020

The Honorable Chris L. Hurst
Member, Virginia House of Delegates
VIA E-MAIL

Dear Delegate Hurst:

Thank you for your recent letter regarding the Virginia Employment Commission and the ongoing response to unprecedented demand for unemployment benefits due to the current COVID-19 pandemic. Since the pandemic was declared in March, staff members at the VEC have worked tirelessly to manage the influx of unemployment claims. We appreciate and share your concern for those Virginians who have reported difficulties in obtaining benefits and in reaching a member of the Commission staff.

In the following paragraphs, I will attempt to address each of the primary concerns raised in your letter.

Staffing

As you note, the Virginia Employment Commission's budget is based on federal funding. Since 2011, the budget for the Commission's Unemployment Insurance division has been cut by more than 40 percent. This coincided with a period of record low unemployment. As a result of these budget reductions, the agency also was forced to lay off staff and sell buildings to maintain core operations.

In the past four months, VEC staff have averaged more than 13,000 hours of overtime per month. The Commission has increased staffing in the Unemployment Insurance division from 432 to more than 700, and increased call center staffing from 82 to more than 450.

In the first six months of 2020, VEC's call center staff answered more calls than in all of 2019. Our capabilities in this area continue to expand. In fact, call center staff answered an average of 28,000 calls per week in June. We are now capable of answering 60,000 per week. That number continues to increase as we hire more staff members. The Commission has utilized multiple means of communications in order to reach applicants. These include text message (more than 6 million sent, with a 90 percent open rate), 4.4 million pieces of direct mail, and responses to 148,000 emails. By comparison, staff received fewer than 7,000 emails in all of 2019.

The VEC shares your concerns regarding disparities and inadequacies in the allocation of federal funds for administration of unemployment benefits programs. We recognize these conditions create challenges of equity for Virginians seeking assistance, and we certainly welcome additional financial resources through state and federal appropriations. We are grateful for your interest in helping to secure these resources on behalf of Virginians during future budget negotiations.

Organizational Review

In 2017, the Joint Legislative Audit and Review Commission was directed to review the VEC's operations and performance. However, it is important to remember that the General Assembly directed the JLARC to prioritize studies on gaming and casinos ahead of the VEC review. Consequently, JLARC has not yet begun its review of VEC. We look forward to assisting JLARC staff in their review of the Commission's operations and performance. VEC staff members have a good working relationship with JLARC staff, and we value their expertise.

In the meantime, the VEC has undertaken significant efforts to improve delivery of services, streamline processes and better serve the public while still operating within the complex framework of state and federal laws. We have expanded call-center facilities, initiated third-party technology partnerships and begun a modernization of our digital platforms.

Online Portal

We agree that establishing an online portal that enhances employers' ability to provide information in a timely and efficient manner is important for the timely determination of benefits eligibility. In fact, we established such a portal more than three years ago and it is currently in operation. However, the General Assembly passed legislation this year that delayed mandatory employer participation until January 2021.

We appreciate your stated desire for the Commission to expedite employers' provision of necessary information. However, due process is required for workers as well as for employers, whose tax payments fund the Unemployment Insurance Trust Fund. The Commission must fulfill its responsibilities in accordance with state and federal laws, and we are not permitted to alter deadlines, or lean toward one party or another, without the statutory authority to do so. Deadlines for employers to submit information already exist, as do fines for non-compliance.

Compliance with State and Federal Regulations

The current pandemic has raised difficult questions about public health, economic activity and the process for returning to work. We share your concern about employer and employee health and welfare. The Commission is committed to ensuring claims are adjudicated in accordance with good-cause requirements in the context of Virginia's new worker safety regulations. We support those regulations and have procedures in place to ensure our adjudication complies with the federal and state requirements, to include these new regulations.

Furthermore, future efforts will be needed to address the solvency of Virginia's Unemployment Insurance Trust Fund. Because Virginia's unemployment laws conform to federal law, Virginia employers receive a 90 percent reduction in their federal unemployment tax. If Virginia borrows from the federal government and does not repay within the terms set by the federal government, the Commonwealth could be considered out of conformity and our employers could lose this reduction.

Helping Virginians

The Virginia Employment Commission's overarching mission is to promote economic growth and stability by delivering and coordinating workforce services. These services include policy development, job placement, temporary income support, workforce information, and transition and training services.

While there is room for improvement, the professional staff at VEC has worked admirably under exceedingly difficult circumstances to achieve this mission. It is important to note that the vast majority (91 percent) of eligible Virginia workers who filed for benefits after being laid off due to lack of work or through no fault of their own have been paid within 14 days.

The Virginia Employment Commission is charged with executing laws approved by state and federal lawmakers. The existing system under federal and state law requires adjudication for workers who voluntarily quit or were discharged by their employer for reasons such as misconduct. The law does not provide VEC with the authority to bypass these requirements. The majority of inquiries from legislators involve workers who reportedly voluntarily quit or were discharged by their employer.

Everyone at the VEC welcomes an opportunity for a more in-depth discussion on how legislators may be able to expedite these hearings. We understand that many people disagree with the eligibility-based program requirements during the current pandemic. Nevertheless, the VEC lacks the legal authority to reshape or disregard statutory requirements.

VEC, like so many employers, is dealing with the impact of the health crisis while working to address the impact to businesses and workers. Our staff members have been directly affected, with multiple coworkers testing positive for COVID-19. There is nothing more important to us than the well-being of our most valuable resource, our staff. We are taking every precaution possible to ensure their safety while they continue to serve the public. I am proud that in the last 125 days, our agency has programmed and implemented three new federal programs, managed our state benefit program and distributed more than \$6.2 billion in benefits payments to hundreds of thousands of Virginians in need.

I am proud of the long hours that our employees have endured under extraordinary circumstances to ensure claimants are reached and issues resolved. I am proud that we have led this agency through an unprecedented crisis with determination, hope and resilience. We want to do more and we hope to work with you to find additional ways to streamline the existing

system. We stand ready to work with you and other legislators to deal with these complex issues affecting workers and businesses across the Commonwealth, and look forward to engaging in future conversations.

Sincerely,

A handwritten signature in black ink that reads "Ellen Marie Hess". The signature is written in a cursive, flowing style.

Ellen Marie Hess
Commissioner

CC:

Members of Virginia General Assembly

The Honorable Ralph S. Northam, Governor

Dr. Megan Healy, Chief Workforce Development Advisor

Mr. Hal E. Greer, Executive Director, JLARC