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MARILYN P. O'MARA
MEMBERS

NEW YORK STATE OF OPPORTUNITY.
Unemployment Insurance Appeal Board

PO Box 15126
Albany, NY 12212-5126
TEL: (518) 402-0205
FAX: (518) 402-6208
www.uiappeals.ny.gov

LEIGHANN Y. BROWN
EXECUTIVE DIRECTOR

TRACIE L. COVEY
CHIEF ADMINISTRATIVE LAW JUDGE

CHRISTOPHER M. TATE
JUSTIN DENTON
LAUREN CHATTERTONALISON
FERRARA (acting)
PRINCIPAL ADMINISTRATIVE LAW JUDGES

Board Meeting

Date: Wednesday, July 17, 2024

Location: Menands, NY

Present: Geraldine A. Reilly, Chair

Randall T. Douglas, Member

Marilyn P. O'Mara, Member (via videoconference from Elmira, NY)

Michael T. Greason, Member (via videoconference from Brooklyn, NY)

June F. O'Neill, Member (via videoconference from Ogdensburg, NY)

Tracie Covey, Chief Administrative Law Judge

Leighann Brown, Executive Director

Christopher M. Tate, Principal Administrative Law Judge

Agenda:

1. Welcome
2. Call to Order
3. Roll Call
4. Reading and adoption of agenda
5. Reading and adoption of minutes – April 17, 2024, meeting
6. Executive Director's Report
7. Chief Administrative Law Judge's report
8. Principal ALJ for Appeals' Report
9. Other
10. Adjourn

Call to Order/Welcome

- Board Chair Geraldine Reilly began her remarks by welcoming all attending and those watching remotely to this meeting of the New York State Unemployment Insurance Appeal Board, which was the third meeting of 2024. She added that she was located at the Board's headquarters in Menands, New York.

- Chair Reilly thanked all those attending and watching the meeting for their interest in the operations and management of the UIAB. She added that the UIAB is an adjudicative body with jurisdiction over disputes regarding eligibility and payments concerning New York State Unemployment Insurance. She thanked everyone for their continued interest in this consequential work.

- Chair Reilly introduced herself as the Chair of the New York State Unemployment Insurance Appeal Board.

- This meeting has been noticed, the draft agenda has been published, the minutes from the previous, April 17, 2024, meeting have been circulated to the members, and the public has been invited to observe in real time. This meeting is being recorded and will be available, along with the minutes on our website, https://uiappeals.ny.gov/ .

- Chair Reilly expressed her thanks to all of those who have supported the work of the Board in addressing the many challenges they have faced. In addition, she thanked the staff and leadership of all the UIAB offices, and she thanked her colleagues on the Board for their work, encouragement, and support.

- Chair Reilly acknowledged the myriad technological innovations which this year has brought. She added the staff of the UIAB have accomplished, through the leadership of the Chief Administrative Law Judge (CALJ), all of the Principal Administrative Law Judges (PALJs), and Executive Director, a Virtual Hearing environment for the convenience of public and staff. And the UIAB staff has initiated Virtual Board Hearings.

- She continued by saying that the UIAB will soon begin a completely paperless procedure for hearings-many thanks to the leadership team for bringing the UIAB into the technological age.

- Chair Reilly said that you will hear more about these exciting projects during the executive presentations but be assured that 2024 will continue be a year of technological advancement—which will change many aspects of how work is done at the UIAB, all in the interest of serving customers and employees in a smarter and better way. Virtual Hearings have been implemented and UISIM and other innovations are on the horizon.

- Chair Reilly added that it is her hope that this consistent schedule of Board meetings presents a Board that is proactive and accessible-- and a Board which aggressively addresses the 21st century challenges that we face or that we anticipate; and that the UIAB addresses those tasks with optimism and confidence in the skill and effort of its many talented employees.

- Each Board Member, and each staff member is serious and interested—industrious and engaged in their approach to the important work that the UIAB does. Chair Reilly sincerely thanks them for that.

- Chair Reilly also wanted to acknowledge and thank Chief Administrative Law Judge Tracie Covey, who is based in Syracuse but is attending today's meeting in Menands and has worked

tirelessly to advance the Board and its Mission. Tracie assumed this role in a time of pandemic crisis and has been a judicious leader ever since.

- Chair Reilly acknowledged Leigh Brown, the UIAB's hard working, very skilled and dedicated Executive Director, who attended the meeting in Menands. She also thanked Principal ALJ for Appeals Christopher Tate, who was present in Menands, for his work in the Higher Authority but whose expertise is far reaching.

- Chair Reilly continued by extending her gratitude to Heidi Kelly who is taking minutes today, and who has done so much to make today's meeting happen; and to Amy Higby, Nastassia Tripp and Paul Homin, who assisted with technology for this meeting.

- After the meeting, there was a brief training session for Board Members on new aspects of the Labor Law, delivered by Senior ALJ David Kim. Senior ALJ Kim discussed Board Member participation in remote virtual Board Hearings.

- Chair Reilly took a moment before she called the meeting to order to remind members, staff, and the public that our next public meeting of the Board will be held on Wednesday, October 17, 2024.

- The meeting was called to order at 11:03 a.m.

Roll Call

- Attendance was taken by Executive Director Leigh Brown. A quorum was present.

Reading and adoption of the agenda

- Member Randall Douglas moved to accept the agenda.

- Member Michael Greason seconded the motion.

- Motion to accept agenda adopted unanimously.

Reading and Adoption of the minutes from the April 17, 2024, Board Meeting

- Member Michael Greason moved to waive the reading and to adopt the minutes.

- Member June O'Neill seconded the motion.

- Motion to suspend reading and adoption of the minutes unanimously approved.

Executive Director Report – Leighann Brown

- Introduction**:**

- Executive Director Brown began her report by wishing everyone a good morning.

- Technology:

  - The UIAB virtual hearings and remote hearings continue to be successful. The BSA team is waiting on the contractor's quotes for phase II of the Virtual Hearings project, which includes additional language access enhancements and long-term hearing recording storage optimization.

  - Chair Reilly, UIAB Manager Janet Beaudoin, and Leigh developed customer service metrics from reports created in the UIAB's interactive voice response (IVR) system. The focus is on callers' wait time on a call not to exceed one minute, but the primary goal is to stay below five minutes. Call time is also being monitored, meaning how long the caller is on the phone with administrative support, which will help to determine training opportunities for personnel. The goal is to stay under 20 minutes, but the average has been found to be under six minutes. Lastly is a Service Level, which is generated from various variables. The average industry standard is 85% but based on our administrative team's consistency of higher Service Levels, our goal is set at 95%. Quality customer service is the priority for our stakeholders. Another benefit of these reports is that they flag management of potential technical issues, which allows Leigh to see issues early on with the system and to escalate corrective measures.

  - The Unemployment Insurance System Improvement Modernization (UISIM) project is on track and will go live when the system is ready.

  - Leigh and Chief Administrative Law Judge Tracie Covey have developed a team to enhance work and hearings utilizing existing technology. The UIAB is starting a project to integrate an electronic case file (ECF) throughout the hearing and appeal process. The UIAB receives files in an ECF format but converts them to paper at this time. We have had numerous discussions over the past year, and this initiative will help us move to a better position when UISIM goes live. We are very excited about this significant change, which will reduce paper, reduce mailing, streamline workflows, allow more remote work for our employees, and more (e.g., our administrative employees currently can only work remotely 20% due to paper restrictions. While ECF will streamline workflows, it changes work but does not eliminate work or personnel needed to do the work. The UIAB is working with DOL to develop change management tools to prepare all staff. And, as we did with IVR and Virtual Hearings, we will develop comprehensive training for all of our staff.

  - Since the Pandemic, we have been sending robocalls to claimants one week before their hearing to remind them of their hearing. The call provides the date and time of the hearing. We have enhanced the calls. As of June 28th, the calls are being sent to claimants one week before their hearing and one day before their hearing. The call offers at the end of the message, "*If you have any questions, press 1 to speak to a representative.*" The calls are sent during the business day, so if a claimant needs to speak to someone, their call will go directly into the IVR and be prioritized in the call queue. We are working with ITS to create automated reports to show how many calls are made and how often recipients press 1. To give you an idea of the value of this tool, on average, we are sending over 500 calls per day, and, on average, 40 recipients press 1. We are not done yet. We are working with ITS to generate this call list with automation rather than have the BSA team download this list and send it daily, and ITS and DOL are working with us to create an SMS text reminder. Once that occurs, after the press 1 message, the message will say, "*Press 2 to receive an SMS text message reminder. Charges may apply,*" and recipients of the call will receive a text reminder of the date and time of their hearing so they have it handy for reference. We will continue looking for opportunities as we have more data over a longer time period to determine all the benefits of these enhancements.

- The UIAB BSA team is also working with DOL to test outgoing phone calls. Once complete, all outbound calls will say they're coming from the Department of Labor. We are working to change it so that outbound calls will say they're coming from the Unemployment Insurance Appeal Board. The great thing about this enhancement is that recipients of our calls will not see "Unknown" or other vague notes on the incoming calls screen. This will help our stakeholders know that the UIAB is calling which will hopefully encourage them to answer the call rather than wait for a message and have to call back.

- Staffing News:
  - Recruitment is key with the Executive Team. In staffing news, our judicial and administrative staffing level is presently at 105 employees. Leigh stated that our five-member new-hire ALJ class, from April 25th and May 9th, is doing exceptionally well. We are thrilled to tell you that our last recruitment efforts were astounding. We are planning to welcome an eight-member new-hire ALJ class on September 12th. Leigh stated that Tracie would expand further. Tracie, the PALJs, and SALJs received great lists from NY-HELPS, and they really hit this one out of the park. Under UIAB Manager Janet Beaudoin's leadership, Admin has also been extremely busy. We have two promotions effective August 1st—one in Menands and one in Brooklyn. We made offers to two LSR candidates in Brooklyn and are receiving great candidates for a current position as Legal Assistant 2 in Brooklyn. That posting closes on July 23rd and requires paralegal skills. We are currently in round one interviews for an LSR in Syracuse and Garden City and preparing to post for an additional LSR in Buffalo and Menands. The admin candidates that Janet and her team have hired are doing incredibly well. They learn fast and are doing really great work.

  - 30% of the UIAB is retirement eligible. From that, Tracie has tracked the judges, and we have 16 judges with 30-plus years of state service. So, attrition will continue, and recruitment will continue being a priority. Leigh concluded her report.

  - Chair Reilly asks for questions or comments.

  - Member June O'Neill asked whether there have been any results from the outreach that was done to the Law schools earlier this year.

  - Leigh answered that no one who's interviewed so far has mentioned coming from that group recruitment. She added that recruitment will continue to be posted in law schools whenever available.

  - Member June O'Neill also asked if there is a way to track the satisfactions of the claimants, employers, and representatives who are using the virtual hearings.

  - Leigh replied that part of Phase II of the virtual hearings will include a survey that will be added at the end of the hearing so participants can tell us about their experience during their hearings.

  - Chair Reilly thanked Leigh for her very comprehensive report and complimented Leigh's report for conveying the impact of technology on customer service and the UIAB's ability to utilize that technology in the best way possible. Chair Reilly added that the UIAB wants the hearing experience to be as fair and equitable as possible but also convenient and engaging. She thanked Leigh for doing a great job with her team.

  - Member Randall Douglas moved to accept the report into the record. Member Michael Greason seconded. The report was unanimously accepted into the record.

Chief Administrative Law Judge's Report - Tracie Covey

- Introduction:
  - CALJ Tracie Covey began by stating that she is pleased to have the opportunity to provide everyone with updates on the judicial side of UIAB operations that have happened since the last Board meeting. As Leigh mentioned we continue to be very busy.
- Judicial Staffing:
  - Tracie reported about judicial promotions. Lauren Chatterton was officially appointed to a Principal Administrative Law Judge position for the lower authority in May of this year. She has been with the Board for over 13 years during which time she has contributed to the success of several important legal and technological projects as well as training initiatives. Tracie added that PALJ Chatterton has already shown herself to be a wonderful asset to the executive management team.
  - Alison Ferrara has been nominated to become a Principal ALJ as well. Alison has been with the Board for over 12 years and is currently our statewide training coordinator and CLE administrator. She has been integral to the success of our new hire training program as well as the continuing legal education of our experienced judges. The executive team is very excited to welcome her.
  - Catherine Adlerman was promoted to a Senior ALJ position at the higher authority in May. Cat has been with the UIAB for over 23 years. She is a trainer and a tester for the Unemployment Insurance System Improvement Modernization Project (UISIM), a member of the internship committee, and has participated in various special projects over the years.
  - Seeta Persaud was also promoted to a Senior ALJ position at the lower authority in June of this year. Seeta is in the Buffalo office and has been with the Board since 2021. During that time, she has created materials for and facilitated new hire and Board member trainings, and on her own initiative developed a dynamic exhibit marking tool for e-case files. She will also be a trainer for the upcoming computer modernization project (UISIM) and has participated in various other special projects during her tenure.

    Tracie continued with an update regarding recruitment. She acknowledged that, as Leigh reported, the NY HELPs Program had a very positive impact on the size of the UIAB applicant pool. Second round interviews have just been completed and offers are planned to be extended to eight additional ALJs for a class that is scheduled to start on September 12th.
  - Tracie reports that the spring new hire class of 5 ALJs have completed their intensive Phase 1 training and are now calendared for daily hearings. They increase to 3 hearings per day this week. In the second full week in August, they will complete Phase 2 training on additional legal issues and will be on full calendar by mid-August. It is already apparent that their work is having a positive effect on our inventory at the lower authority, and their supervisors all report that they are doing wonderfully.
- QA/FQR:
  - Tracie was proud to report that the UIAB Federal Quality Review for the first quarter of 2024 had an average score of 98.85 percent. This was based on the 20 randomly selected cases that were scored according to the 31 federal quality criteria. All these cases achieved the U.S. Department of Labor's passing grade of 85-percent or better, and 15 of the 20 hearings had perfect scores of 100.

- Tracie reports that she attended the National Appeals Review in Washington, D.C. at the end of April this year. This tri-annual peer review is attended by each state, the District of Columbia, Puerto Rico, and the Virgin Islands. It has not been held since 2019 due to the pandemic and other issues. During the review, randomly selected cases from each state are assigned to other states to re-review. It was truly a wonderful experience getting to meet USDOL contacts and other UI Appeals professionals from other states. Tracie said that the group compared practices, shared ideas, and discussed challenges and successes that they all have experienced over the last few years. She was very happy to report that New York's cases had an average score of 99 percent both during the original review and the national re-review. This means that our original reviewers were spot-on in their assessment of the ALJ's work and that the ALJs holding the hearings have an exceptional understanding of the federal quality standards.

- We are currently conducting the audits for the 2nd Quarter of 2024, which Tracie will report on at the next Board meeting.

- While our quality remains high, the UIAB still struggles to meet the US Department of Labor's acceptable level of performance markers at the lower authority. The USDOL numbers for the first quarter of 2024 show that our average case age was 48.33 days. The UIAB internal validated data for May 2024 shows average case age to be 50.77 days and June was 56.57 days. This continues to rise above the acceptable 30-day level for several reasons. First, the weekly case load received from the Department of Labor has increased significantly over the last few months as they address their own adjudication backlog. Despite our best recruitment efforts, the UIAB is still not at the staffing level to be able to schedule all current inventory. CALJ Covey is hopeful that after the next round of hiring, with the eight new hires who start in September, that the UIAB will be in a better position to address the growing backlog. CALJ Covey said that the team is currently focused on scheduling the oldest cases first. In the first quarter of 2024, 5560 cases were completed, but the UIAB was unable to maintain compliance with the requirements that 60-percent of those cases be completed within 30 days and 80-percent of those cases be completed within 45 days.

- The UIAB higher authority continues to maintain compliance with overall case age requirements. For the 1st quarter of 2024, USDOL reported data shows that the UIAB's average case age was 37 days and our own internal validated data for May 2024 shows our average case age is 33.78 days and in June was 36.96 days. CALJ Covey stated that the UIAB is also close to meeting the appeals timelapse requirements. USDOL data for the 1st quarter 2024 shows that 744 total appeals were completed. 45.03 percent of these cases were completed within 45 days and 77.15 percent were completed within 75 days. (The requirement is 50-percent within 45 days and 80-percent within 75 days.)

- Tracie concluded her report by thanking Chair Geri Reilly for her continued support of many initiatives. She stated that it is evident from both Leigh's and her report that 2024 has been a busy and exciting year that has come with its fair share of challenges and successes due in part to changes in the technological advancements that the UIAB is making. CALJ Covey added that Chair Reilly's leadership has been extremely appreciated during this time.

- Chair Reilly thanked Tracie for her report and kind words as well as for the accomplishment in the quality of the work being produced. She said to have consecutive quarters of ninety-nine-percent quality excellence is an outstanding testament to the work that Tracie, Leigh, PALJ Tate and the whole team and the Board has accomplished.

- Chair Reilly asked for questions or comments. Hearing none she asked if there was a motion to accept the report and incorporate it into the record.

- Member Randall Douglas moved to accept the report into the record. Member June O'Neill seconded. The report was unanimously accepted into the record.

Principal ALJ Report - Christopher Tate

- Principal ALJ for Appeals Christopher Tate discussed four recent Appellate Division cases affirmed by the Court in the Second Quarter of this year:
- *Matter of Moi-Thuk-Shong*, 227 AD3d 1348
- *Matter of Carmody*, 2024 N.Y.App.Div LEXIS 3573
- *Matter of Herskowitz*, 2024 N.Y.App.Div LEXIS 3570
- *Matter of Bankers Life & Casualty***,** 2024 N.Y.App.Div. LEXIS 3588
- Chair Reilly asked for any thoughts or comments on the report issued by Principal ALJ Tate.
- Chair Reilly thanked PALJ Tate for his report and added that the Court in each case affirmed the Board's decisions.
- Motion to adopt the report and incorporate into the record was made by Board Member Michael Greason. Member Marilyn O'Mara seconded the motion, which was unanimously adopted.

Other/New Business

- Member Randall Douglas gave kudos to Chair Reilly for assembling a great team at UIAB.
- Chair Reilly thanked Member Randall Douglas and asked for any other new business. Hearing none Chair Reilly asked for a motion to adjourn.

Adjourn

- Member Michael Greason moved to adjourn the meeting, and Member June O'Neill seconded the motion. The motion to adjourn was unanimously adopted. The meeting was adjourned at 11:35 a.m.

Submitted by Heidi Kelly