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JUSTIN DENTON
MARK R. SOKOLOWSKI
CHRISTOPHER M. TATE
PRINCIPAL ADMINISTRATIVE LAW JUDGES

Board Meeting

Draft Minutes

Date: Wednesday, October 16, 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 (Chair 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 fourth 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 July 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 we've accomplished this year. 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 our customers and our 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 and 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 (CALJ Covey), who is based in Syracuse but is attending today's meeting in Menands and has

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

- Chair Reilly acknowledged Executive Director Leighann Brown (Director Brown), the UIAB's hard-working, very skilled, and dedicated Executive Director, who attended the meeting in Menands. She also thanked Principal Administrative Law Judge for Appeals Christopher Tate (PALJ Tate), who was present in Menands, for his work in the Higher Authority and whose expertise is far-reaching. PALJ Tate will be delivering an expanded report today.
- 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 and Nastassia Tripp, who assisted with technology for this meeting.
- After the meeting, there was a brief training session for Board Members on an examination of the Legal Elements of Credibility in our Decisions, delivered by Principal Administrative Law Judge Alison Ferrara.
- 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, January 15, 2025.
- The meeting was called to order at 11:03 a.m.

Roll Call

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

Reading and adoption of the agenda

- Member Randall Douglas (Member Douglas) moved to accept the agenda.
- Member Michale Greason (Member Greason) seconded the motion.
- The Motion to accept the agenda was adopted unanimously.

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

- Member Greason moved to waive the reading and to adopt the minutes.
- Member June O'Neill (Member O'Neill) seconded the motion.
- Motion to suspend reading and adoption of the minutes unanimously approved.

Executive Director Report – Leighann Brown

- Director Brown began her report by wishing everyone a good morning.
- Technology:
 - Director Brown stated that as the UIAB ends the year, work is wrapping up on some modernization and customer service projects. Director Brown and the BSA team, including Amy Higby and Nastassia Tripp, are working closely with DOL Contracts to include additional language access enhancements to the Virtual Hearing platform and long-term hearing recording storage optimization.
 - Based on the contract process, the language access enhancement will be pushed to 2025. Director Brown was happy to report that the UIAB recently added a customer service survey at the end of the Virtual Hearings. The live survey link was added to the page that normally will say, "Your hearing has ended" or "No more hearings are scheduled" on the webpage of the Virtual Hearing Center waiting room. There is text added that reads, "We welcome your feedback about your virtual hearing experience in our voluntary survey," and the link is inserted behind the words "voluntary survey." The survey is confidential unless the participant decides to add their hearing ID. It simply asks for the type of device used to check in and join the hearing, if they checked in 45 minutes early, if they had any issues checking in through Webex, and if the participant thinks the platform is easy to use. Those questions help as the UIAB navigates the Virtual Hearing platform to make sure that it's meeting the needs that are expected.
 - Director Brown and CALJ Covey are working closely with the Adjudication Services Office (ASO) to develop a work group to enhance the electronic case file (ECF) transfer process from ASO to the UIAB. From there, CALJ Covey and Director Brown are working within their team and the UIAB to transition all our paper case files to ECF throughout the hearing and appeals process. There have been numerous discussions over the past year, and this initiative will help to move closer to a better position when UISIM goes live for administration and judicial staff. This change will upskill our judges and our admin for UISIM, and it will reduce paper, reduce mailing, streamline workflows, and allow more remote work for our employees (for example, administrative employees currently work remotely 20% due to paper restrictions so this will enhance their remote work), and more. This change does not eliminate work, or the number of administrative staff needed to do the work, because this particular work cannot be automated at this time. Transitioning from paper to electronic files enhances workforce flexibility for personnel and builds resiliency. When a weather or health event occurs that requires judges and administrative staff to work remotely, electronic case files allow the Board to continue its core mission seamlessly.
 - At the July Board meeting, Director Brown shared that Chair Reilly, UIAB Manager Janet Beaudoin, and she developed metrics to measure customer service through our interactive voice response (IVR) system. Director Brown was happy to report that the UIAB regularly exceeds the high goals the UIAB set for the administrative team. The industry standard tracking overall customer service in an IVR is 80%. The UIAB set the goal at 95 % and started tracking at the end of the second Quarter this year. In Q2, UIAB was at 97.08%, and in Q3, UIAB was at 95.57%. In Q3 there was a dip in the 2nd week of July due to a system issue which was uncovered in the IVR. While tracking customer service in the IVR reports, other issues can come to light much faster since UIAB is keeping an eye on it and can respond promptly.
 - The Unemployment Insurance System Improvement Modernization (UISIM) project is on track and will go live when the system is ready. UIAB trainers, which includes judges and admin, had training during September to look at the system and do some testing in the system. The feedback was positive about the ease of using the system. Director Brown and CALJ Covey are working

with the UISIM team to add more staff for the system's user acceptance testing (UAT) to ensure the Board is ready for go-live.

- Staffing:

- UIAB judicial and administrative staffing level is currently at 108 employees, and recruitment is discussed regularly within the Executive Team. There are numerous studies and data about turnover in the workforce. About 30% of the workforce changes jobs every 12 months. The good news is there is data that supports employees stay in public sector positions twice as long as in the private sector. Employees in the private sector stay at their job 3 to 4 years versus 6 to 7 years in the public sector. Leading up to the pandemic, many of the judges stayed at the UIAB for all or most of their careers. CALJ Covey has been tracking judicial turnover of new employees since the pandemic. Since the hiring freeze lifted in 2021, the UIAB judicial tenure of new judges reflects what is seen in workforce tenure nationally. Chair Reilly, CALJ Covey, and Director Brown developed a strategy to stay ahead of the turnover trend. CALJ Covey and Director Brown met with DOL Finance to discuss a strategic recruitment plan for judges due to the high percentage of judges who are eligible for retirement this year and next year, as well as data CALJ Covey has been tracking for turnover of new employees since the pandemic. Due in part to the UIAB's ability to share real data and the continuing commitment to track these employment trends, DOL approved the UIAB's plan to conduct two big recruitments each year for 15 UI Referees in each recruitment. This proactive initiative will help the UIAB to keep judicial numbers where they need to be rather than being reactive and posting when someone retires or leaves for a promotion. This stability will support the UIAB's commitment to its core mission. The UIAB continues to receive quality lists from NY-HELPS and will continue to capitalize on this program to keep up with retirements and promotions. The BSA team and administrative teams are staffed up, and the UIAB continues to develop that talent through the great training that EDGE develops and provides and Coursera, which is another opportunity that DOL offers employees to find college-level training for free.
- There has been a lot of change in staff over the past few years, and the UIAB has modernized work through its projects. Overall, Director Brown could not be happier with how well everyone works together to move the Board forward. Change is not easy, and the UIAB has made great strides. Director Brown stated that she is proud of this team and the UIAB culture that has been built at the Board. Director Brown thanked all present and concluded her report.
- Chair Reilly asked for questions or comments.
- Chair Reilly thanked Director Brown and the team she's working with for recognizing how fundamental customer service is to the work that the UIAB does, and how they've exemplified that effort to incorporate customer service as a function of the UIAB's work. Chair Reilly sites the survey at the end of the hearings, which makes it easy to obtain the feedback that's important to the UIAB. The fact that the UIAB has obtained up to 97% customer response, far superior to the industry standard of 80%, really speaks well to the hard work of Director Brown and her team and the ingenuity that they're approaching with.
- Member O'Neill asked whether the UIAB has received any customer feedback on the virtual hearings.
- Director Brown answered that as of Friday, no one had answered the survey yet, and Director Brown will follow up and provide any updates.
- Member Douglas moved to accept the Director's report into the record. Member O'Neill seconded. The report was unanimously accepted into the record.

Chief Administrative Law Judge's Report - Tracie Covey

- Introduction:
 - CALJ Covey began by stating that she is pleased to have the opportunity to provide everyone with updates on the judicial side of UIAB operations.
- Staffing:
 - CALJ Covey reported that Alison Ferrara was officially appointed to a Principal Administrative Law Judge position in August. She has worked at the UIAB for over 12 years, as an Administrative Law Judge (ALJ) and Senior ALJ in our Brooklyn office, has served as the UIAB Training Coordinator since 2020 and is also the UIAB's Continuing Legal Education administrator. Her experience, dedication, and thorough understanding of our training needs, policies, procedures, and practices, allowed her to seamlessly transition into the PALJ role. She has already been an important member of our executive team for some time now and we are very excited that her appointment is finally official.
 - Turning to recruitment news, as Director Brown reported, we are excited to announce that DOL recently approved a new hiring strategy, allowing us to hire up to 30 ALJs next year. While this may seem like a large number, our statistics show that with staff eligible for retirement and the trends related to other attrition over the last few years, we will need to bring on that many judges to keep staffing at a stable level to be able to address our inventory. We intend to post 15 positions with a start date planned for mid-March 2025. We will then post another 15 positions for a class planned to start in mid-September. Focusing on hiring bigger classes will be much more efficient from a training and onboarding standpoint. It will also allow us to proactively plan for the future, unlike our current model where we can only hire once individuals leave employment with us, creating a situation where we are always understaffed and need to backfill positions.
 - Two new hire classes from this year – one that was hired in the spring and one that was hired in the fall – continue with their progress. The spring class of 4 is now all on full calendar and can handle a wide range of issues. The most recent new hire class of 6 will complete their intensive Phase 1 training over the next two weeks. They have already held misconduct hearings and voluntary quit hearings and all reports are that they are doing very well.
- QA/FQR:
 - Switching gears from personnel to quality numbers, Federal Quality Review scores for the UIAB remain remarkably high. For the second quarter of 2024, the UIAB had an average score of 99.12%. This was based on the 20 randomly selected cases that were scored according to the 31 federal criteria. All these cases achieved the U.S. Department of Labor's passing grade of 85% or better, with 13 of the 20 hearings had perfect scores of 100. We are currently conducting FQR audits for the 3rd Quarter of 2024, and CALJ Covey will report on those at the January meeting.
 - While quality remains high, UIAB is still struggling to meet USDOL acceptable level of performance markers at the lower authority. We reported an average case age of 57 days to the USDOL as of June 2024. UIAB internal validated data for August 2024 shows average case age to be 67.24 days. Although overall inventory is starting to decrease, case age continues to rise above the acceptable 30-day level. This is because with our current backlog, we are not at the staffing level to quickly schedule, hear and decide the inventory of UIAB cases. For customer service purposes, we are focused on scheduling the oldest cases first. We are hopeful that with

two significant rounds of hiring next year, we will be in a better position to address our own growing backlog. So far in 2024, the lower authority has issued decisions on over 25,000 case numbers, but we are unable to maintain compliance with the requirements that we complete 60% of those cases within 30 days and 80% of those cases within 45 days.

- With regard to the numbers at the higher authority, we are going to switch things up a bit today and have Principal ALJ Tate report on those numbers and some other exciting happenings that have been going on this year.
- In other initiatives, CALJ Covey was proud to report that the UIAB is creating a continuing legal education library in 2025. The UIAB intends to have one-to-two-hour training videos for CLE credit that will be accessible to attorneys across the Department of Labor. This on-demand free CLE library will be a benefit to both our legal staff and to legal staff across the state. It will also raise people's awareness of the work we do and the law we administer.
- CALJ Covey concluded her report by thanking the Board for giving her the opportunity to speak today.
- Chair Reilly thanked CALJ Covey for her report and commentary and asked the Board for comments or thoughts regarding the report.
- Member Douglas commented that despite falling short of USDOL acceptable timeliness markers, the UIAB does amazingly well with the staff levels it has and produces quality work.
- CALJ Covey answered that the UIAB submitted a plan with the USDOL to address timeliness issues and hopes the UIAB will meet the markers in the next couple of years. CALJ Covey added that the NY HELPS program and ongoing recruitment efforts will hopefully attract qualified applicants like the last class of new hires. Bringing new staff on board should help to alleviate the backlog of work and increase efficiency.
- Member O'Neill inquired whether the UIAB is still reaching out to law schools. CALJ Covey stated that yes, the UIAB is continuing with those efforts and Chair Reilly concurred.
- Chair Reilly congratulated CALJ Covey for achieving excellence at the UIAB even though it is difficult to balance excellence and timeliness. Chair Reilly pointed out that excellence is fundamental to customer service, to achieve that degree of excellence for the people that the UIAB serves. The average score of 99.12% is fabulous and really speaks to CALJ Covey's commitment to achieving that. Chair Reilly praised the hiring strategy which will prepare the UIAB for the future with a plan to hire many talented, excellent judicial staff and thanked CALJ Covey for her ongoing efforts. This will result in a dependable staff who can be integrated into the UIAB year to year program.
- Member Marilyn O'Mara moved to accept the report into the record. Member Greason seconded. The report was unanimously accepted into the record.

Principal ALJ Report - Christopher Tate

- PALJ Tate provided updates on the Higher Authority and recent Appellate Division cases.
- The Higher Authority continues to be in compliance with overall case age requirements. New York's last reported data to the USDOL for July shows that our average case age was 38 days. We are also close to meeting the appeals timelapse requirements. USDOL data for June 2024

shows that he completed 253 appeals that month with 34.39% of those cases completed within 45 days and 71.54% were completed within 75 days.

- There have been some changes this year in UIAB processes. Additional Board hearings have been held in many appealed cases requiring a further hearing, rather than remand the case to the hearing section for a new hearing and new decision. This has helped to streamline UIAB processes so that parties are able to obtain quicker resolution on their cases.
- PALJ Tate was happy to report that there will be more cross-training of appeal and hearing judges in the coming months. In November, judges assigned to appeals will be assigned to conduct hearings so that they can learn to use the electronic case file and gain more experience with the virtual hearing system when we go paperless in 2025. In January 2025, several hearing judges will rotate to appeals for six months at a time. This will assist with the work at the Higher Authority while further enhancing their legal knowledge and skills.
- PALJ Tate discussed two recently decided Appellate Division cases affirmed by the Court:
- *Matter of Bury*, 2024 N.Y.App.Div LEXIS 5054
- *Matter of Park*, Decided October 10, 2024 with no case cite as of 10/11/2024
- Chair Reilly asked for any thoughts or comments or questions regarding the report issued by Principal ALJ Tate.
- Chair Reilly thanked PALJ Tate for his report and added that he just established the all-time record for providing a synopsis of a case issued by the Court less than a week ago. She also congratulated PALJ Tate on his initiative regarding cross training judges and bringing that innovation by which the judicial staff will become more flexible and their work more interesting, to the benefit of the Board.
- Member Douglas asked if the judges have been receptive to the cross training. PALJ Tate replied that they've been receptive and are looking forward to it, having already been involved in a lot of trainings along with the hearing section on virtual hearing issues.
- Motions to adopt the report and incorporate into the record was made by Board Member Douglas. Member O'Neill seconded the motion, which was unanimously adopted.

Other/New Business

- Chair Reilly asked for any other new business. Hearing none Chair Reilly asked for a motion to adjourn.

Adjourn

- Member Douglas moved to adjourn the meeting, and Member Greason seconded the motion. The motion to adjourn was unanimously adopted. The meeting was adjourned at 11:33 a.m.

Submitted by Heidi Kelly