



**From:** [Melissa Evans](#)  
**To:** [LJ, UCBR-RegComm](#); [Trambley, Melissa](#)  
**Subject:** [External] Comments on Proposed Rule-making - UCBR  
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Ms. Trambley,

Please find attached for submission to the UC Board of Review, the comments of Neighborhood Legal Services with respect to the proposed amendments to the UCBR Regulations at 34 Pa. Code, Part VI, Chapter 101, No. 12-120.

Sincerely,  
Melissa

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Because Justice is for All

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## NEIGHBORHOOD LEGAL SERVICES

*Because Justice is for All*

June 9, 2025

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Re: Comments on Proposed Amendments to Regulations  
Chapter 101 of 34 Pa. Code

Dear Ms. Trambley:

I write this letter in response to the proposed amendments of the Unemployment Compensation Board of Review (“the UCBR” or “the Board”) to its appeals regulations at 34 Pa. Code Chapter 101. Neighborhood Legal Services (“NLS”) is a non-profit, legal aid organization that has served indigent and vulnerable residents with civil legal matters in Allegheny, Beaver, Butler, and Lawrence counties for nearly 60 years. Since opening its doors in 1966, NLS has worked to ensure all individuals have access to legal representation to meet their basic needs of economic security, stability, and safety. NLS’s economic security work encompasses employment related services including unemployment benefits, wage claims, workplace discrimination, and criminal record barriers. Since the late 1980s, NLS has handled nearly 10,000 unemployment cases, nearly 3,000 in the last five years alone.

Like our colleagues in the legal aid community, including Community Legal Services (“CLS”), the Mon Valley Unemployed Committee (“MVUC”) and Attorney Michael Simon, we appreciate the Board’s commitment to seeking ways to improve the procedures and process through which the vital safety net of the Unemployment Compensation (“UC”) system is put in place, in furtherance of the express recognition that: “Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of the Commonwealth. Involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker, and ultimately upon the Commonwealth and its

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*Funded, in part, by the Commonwealth and through a contract with the Pennsylvania Department of Community and Economic Development (DCED). The official registration and financial information of Neighborhood Legal Services may be obtained from the Pennsylvania Department of State by calling toll-free within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement. Federal regulations applying to NLS require that we notify all donors that no funds can be expended by NLS for any activity prohibited under P.L. 104-134 or otherwise prohibited by 45 C.F.R. §1600 et seq.*



political subdivisions in the form of poor relief assistance.” 43 Pa.C.S. § 752, 1936, Second Ex.Sess., Dec. 5, P.L. [1937] 2897, art. I, § 3. However, NLS also shares in many of the concerns expressed by CLS, MVUC and Attorney Simon, who regularly handles UC cases in a pro bono capacity on behalf of NLS clients. Collectively, as practitioners, we bear witness to the experiences of a large percentage of UC claimants and to speak to the way in which they may be adversely impacted by some of the changes proposed by the present rule-making.

## **I. REMOTE HEARINGS**

### **A. Preference for In-Person Hearings**

While telephone hearings are sometimes necessary (e.g., during the pandemic, due to severe weather conditions, and other emergent situations), the mere acceptance of telephone hearings under certain circumstances does not warrant the deletion of the expressly stated preference for in-person hearing currently set forth in regulations. See § 101.127 (“In-person testimony is normally preferable to testimony by telephone; however, there can be reasons to justify receiving testimony by telephone”). While the explanation for the proposed changes to Section 101.127(a) set forth in the Summary of Proposed Rulemaking, 55 Pa. Bull. 3230, (the “Summary) states that the “proposed amendment affirms a party’s entitlement to an in-person hearing,” the proposed amendment does not make that express guarantee.

The proposed amendment fails to acknowledge that, while telephonic participation may provide some convenience or even enhanced access in certain circumstances, there can be disadvantages posed by remote participation. By way of example only, the following should be considered – a point which may be lost on less sophisticated participants and is more likely to adversely impact claimants than employer representatives:

- Visual indicators, like body language and facial cues, are lost entirely in a telephonic format. Even if remote participation included a video feed (e.g., via Zoom or Teams), there are limits or manipulations that could include: issues with video quality (buffering, freezing, etc.); camera angles, lighting, and location that might alter the perception of the witness; participants turning off their camera and being coached offscreen (which obviously can create an equal risk with telephonic participation).
- Audio quality can be unreliable, particularly in places where there is limited cell service or broadband access. Depending upon the location from which the remote participant is calling, there may be background noise that the participant cannot control or limit which may interfere with the proceedings.
- Document handling is particularly challenging in hearings conducted remotely, particularly in those cases with voluminous records, or where documents are added to the record without sufficient lead time in advance of the hearing (even if submitted five days in advance of the hearing).
- There may be procedural issues created by remote participation, including, e.g., the right/ability of the participant actually to face/confront the witness providing testimony.

Unrepresented parties – both claimants and employers – may not recognize these important factors and therefore may fail to consider the trade-off between the convenience of remote attendance and their odds of success at the proceeding, where credibility determinations often control the outcome. Additionally, if the tribunal may determine, sua sponte, that a remote hearing is preferred, participants are less likely to exercise their right to an in-person hearing. This may result from their fear that they will draw the ire of the tribunal – in whose hands their fate rests – or it may arise from the significant delays often occasioned by changing the hearing format.

Thus, we agree with the suggestions of our colleagues: that the express preference for in-person hearings should be preserved; and that the right to an in-person hearing (as set forth in the Summary) likewise be stated expressly in the regulation.

### **B. Remote Hearings Presently Limited to Telephonic Participation**

We also share the concerns expressed by our colleagues that the proposed amendments to the regulations seem to be accelerating the use of remote access platforms other than by telephone. While we appreciate that technology has changed (and in some cases, improved) the means by which remote meetings and proceedings may be conducted, the present proposal fails to account for the significant digital divide and want of digital equity that exists within the Commonwealth. As set forth in the Digital Equity Plan for the Commonwealth of Pennsylvania, published by the Pennsylvania Broadband Development Authority in January 2024:

In Pennsylvania, one in ten households lack access to home internet. However, this figure doesn't tell the full story: full and equitable access to information and communication online requires reliable and high-speed internet, a device capable of connecting to the internet, and skills to use it comfortably and safely ... Approximately 26% of the population lives in rural areas, where community resources are spaced further apart, and broadband infrastructure is still incomplete. Meanwhile, an analysis of 2019 census data shows that nearly 70% of low-income households are concentrated in urban areas where connectivity is available, but costs remain too high for many residents. (Digital Equity Plan, p. 1)

Until earlier this month, when federal funding was frozen by the U.S. Office of Management & Budget, Pennsylvania was slated to receive \$1.16 billion through the Broadband, Equity, Adoption & Deployment ("BEAD") program "to invest in new broadband infrastructure ... in areas of our state with no service or poor service so that internet service is available to every Pennsylvanian." Digital Equity Plan, p. 4. Additional federal funding was going to be made available through the Digital Equity Act, "to invest in programs that offer affordable computers and laptops, computer classes, technical assistance, and more." Digital Equity Plan, p.4. The Digital Equity Act had three main goals "to ensure that all people have: the skills, the

technology, and the capacity needed to enjoy the full benefits of an online society and economy.” Id. That funding likewise was cut.

At NLS, we have observed many clients struggle to use technology as they engage with the UC Service Center and the appeal process. As a result of the digital divide, they have encountered difficulty filing claims, registering with career link, setting up/accessing their dashboard (including notices posted there), filing appeals, submitting dockets and other critical functions in relation to their interaction with the Department. We hear countless narratives from our clients about benefits denied or appeals rejected based exclusively on their inability to interface with the UC system. We have had calls from many State Representatives on behalf of constituents who have not been able to get the economic protections of UC benefits on which they should have been able to rely to avoid sliding into indigency. As Governor Shapiro stated when he created the Commonwealth Office of Digital Experience: “We need to meet people where they are and make it easier to work with the Commonwealth online. There should be no wrong door for Pennsylvanians looking to access government services — and under the leadership of CODE PA, we will create human-centered, user-friendly, reliable, and accessible digital services that create opportunity for Pennsylvanians to take advantage of all the resources and benefits the Commonwealth has to offer.” A rush to remote hearings that rely on technology that is not universally available, accessible or navigable by all participants not only creates a “wrong door” approach, it slams the door in the face of unemployed Pennsylvanians in direct contravention of the express purpose of the UC Law.

## **II. BATCHING OF APPEALS**

We thank the Board for its sage decision to codify the newly emerging practice of batching appeals, such that all related decisions are considered appealed by the filing of an appeal as to one decision. We agree with CLS that such a practice, not only should be permitted, but that it should be mandatory. Given the distinct determinations by the Service Center that may arise from the same operative of facts, which can create substantial confusion, particularly for unrepresented participants, at the time of appeal – as well as the inefficiencies that can arise from the processing of multiple appeals – all participants (including the Department) are served by a universally inclusive appeal and consolidation for purposes of the hearing.

## **III. BOARD POWERS AND TIME LIMITATIONS**

We likewise share and adopt the concerns set forth by CLS in pages 12 to 13 of its submission, as well as those stated by Attorney Simon in his submission. The unrestricted expansion of the UCBR’s discretion to reopen and vacate/remand a determination by a referee without any time limitation is a departure from all generally held principles of finality and due process. Following the pandemic, we all experienced cases in which decisions regarding the eligibility of clients to receive Pandemic Unemployment Assistance benefits was revisited years after the original award ... sometimes with no meaningful notice or opportunity to appeal, by virtue of failed service on our clients. The result was not only a punitive demand for

repayment, but also a swamping of the referees and, ultimately, the Board with appeals. This unfettered discretion is not warranted or sufficiently explained.

Thank you for your continued commitment to improving the UC system and to your consideration of this submission.

Sincerely yours,

*Melissa L. Evans*

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