

**Testimony Before the Michigan House of Representatives
Oversight and Ethics Committee**

**Comments on HB 4982, Legislation Addressing Certain Problems Within the
Unemployment Insurance Agency's
Michigan Integrated Data Automated System (MiDAS)
(Rep. Victory)**

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Chairman McBroom, Members of the House Oversight and Ethics Committee, thank you for this opportunity to share my views on this bill, and on the deeply troubling consequences resulting from the implementation of the Michigan Integrated Data Automated System (MiDAS).

Last year, a few colleagues and I became deeply concerned with recent changes in Michigan Unemployment Insurance Agency (UIA) procedures that we believe are behind an unprecedented increase in the number of UI fraud cases established by the UIA. In particular, we were concerned that agency procedures, made possible by a new IT system (MiDAS), subjected significant numbers of innocent claimants to unjust fraud charges through a practice that some have called "robo-fraud."

Despite changes in Agency procedures in the fall of 2015, the most recent data available find that fraud cases remain strikingly high. Given Michigan's exorbitant four-times fraud penalty and the 12% interest rate charged on restitution, I believe it continues to be extremely important for the Michigan State House of Representatives Oversight and Ethics Committee to consider measures such as HB 4982 that would further ensure that Michiganders are treated fairly in fraud cases brought against them.

My colleagues at the University of Michigan Unemployment Insurance Clinic (UIC) first noticed an uptick in clients seeking help with fraud-related cases in 2014. Through the appeals process, they learned that UIA had introduced a new, automated computer system that was behind the surge in fraud cases.

It is our understanding that UIA's computers searched through past and present claimant records, scanning for wage-record irregularities, in addition to reporting discrepancies between claimants and their former employers related to the reason for separation from employment (why and how someone leaves a job). UIC frequently sees partial benefits cases where the agency automatically brings fraud charges against claimants who made good faith efforts to accurately report wages.

More often, however, claimants request help with separation fraud. After UIA's computer system identifies a separation discrepancy, it automatically sends claimants a questionnaire threatening to issue a "determination based on available information," if they fail to respond within ten days. The agency does not explain in any detail the nature of the problem in the questionnaire itself or in the ensuing fraud determination letter. (Not until the appeals hearing do claimants learn the details of the agency's accusations.)

Because administrative law judges recognize the absurdity of this process, UIC rarely loses robo-fraud cases at appeals hearings—note that a recent report by the office of the Auditor General found that only 8 percent of misrepresentation appeals are affirmed. However, UIC and others are only able to represent a fraction of claimants swept up by robo-fraud. Even those claimants who are able to afford a lawyer should not be forced to defend themselves against baseless charges.

The following are other aspects of robo-fraud that raise concerns:

Claimants treated unfairly: We do not believe that a simple reporting discrepancy between a claimant and his former employer should constitute fraud. Claimants and their former employers frequently disagree about the nature of job loss for a variety of reasons.

Claimants do not receive timely notices: UIA levels fraud charges against claimants whose benefits sometimes ended months or even years ago. Because UIA does not have current address information or a way to verify receipt, claimants do not always receive the questionnaires or determination letters. It is our understanding that sometimes notices may even be sent to an email address set up by UIA, even for those who have returned to work and no longer receive benefits.

Disadvantaged claimants at greatest risk: Claimants charged with fraud are not eligible for a hardship restitution waiver (allowed under Michigan law for indigent claimants), nor are they eligible for free representation at appeals hearings through Michigan's Advocacy program.

When I first began to research this matter, I started by examining trends in the establishment of fraud cases by UIA. My colleagues and I found that in the year-long period ending in March 2015, UIA had established 26,882 fraud cases, more than five times the typical number of fraud cases and twice as many as in the previous high during 2012. During the most recent quarter for which we had data at the time, 6,810 cases had been established, at the time making it the second highest quarter in program history.

My understanding is that UIA was ordered to cease auto-adjudicating any misrepresentation or fraud charges by the Department of Labor as of August of 2015. Upon hearing this good news, my inclination was to believe that this would solve the issues.

Yet even following this instruction, UIA continues to establish an unprecedented number of fraud cases. In the quarter ending in September 2015, UIA established 8,030 fraud

cases, a significant increase, rather than decrease. Just to put that in perspective, that is more than three times the average number of cases established in a single quarter during the years 2011-2013.

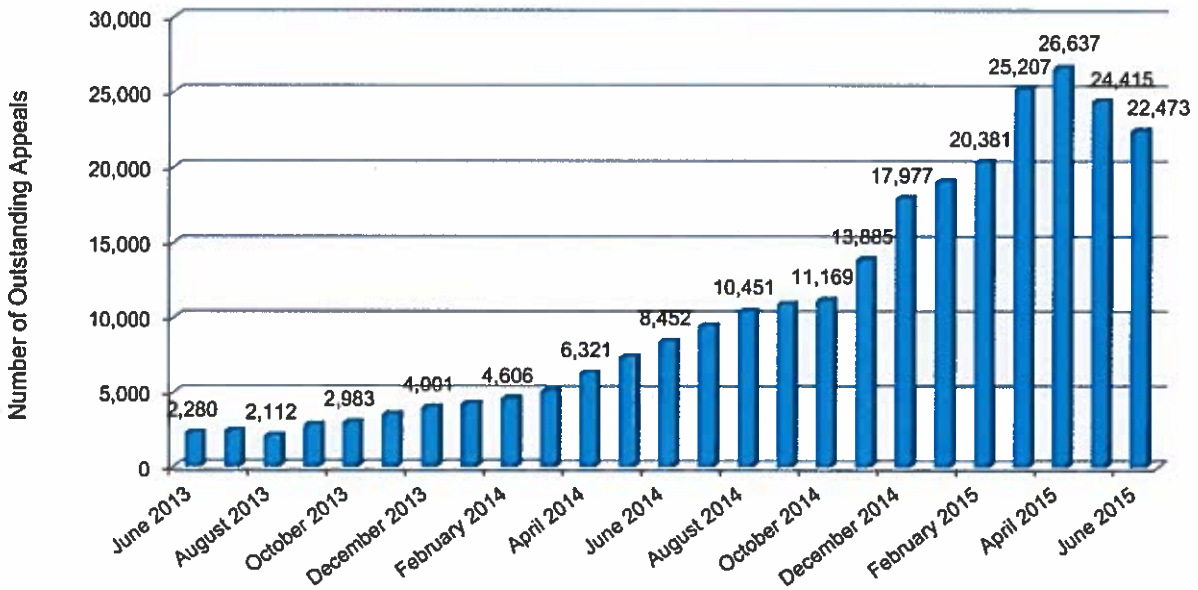
In the final quarter of 2015, UIA established 5,183 fraud cases, a decline but still strikingly high by historical standards. What's more, outstanding receivables on fraud cases stand at \$68 million, an all time high for the program, and a dramatic increase from a year prior.

Especially given Michigan's exorbitant four-times fraud penalty and the 12% interest rate charged on restitution, I believe it continues to be extremely important for the Michigan State House of Representatives Oversight and Ethics Committee to consider measures such as HB 4982 that would further ensure that Michiganders are treated fairly in fraud cases brought against them. It is my understanding that the sponsor, Rep. Victory, is being asked to consider additional changes in this bill, that would go even further towards ensuring a more fair UI system for both claimants and employers. I urge you to seriously consider these efforts, and thank you all for allowing me the time to speak with you today.

SUPPLEMENTAL INFORMATION

UNAUDITED
Exhibit #1

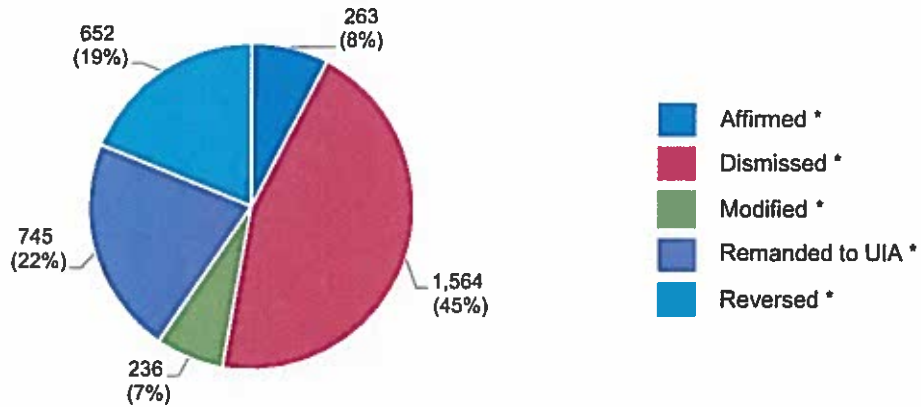
MICHIGAN INTEGRATED DATA AUTOMATED SYSTEM (MIDAS)
Number of Outstanding Unemployment Appeals by Month
For the Period June 2013 Through June 2015



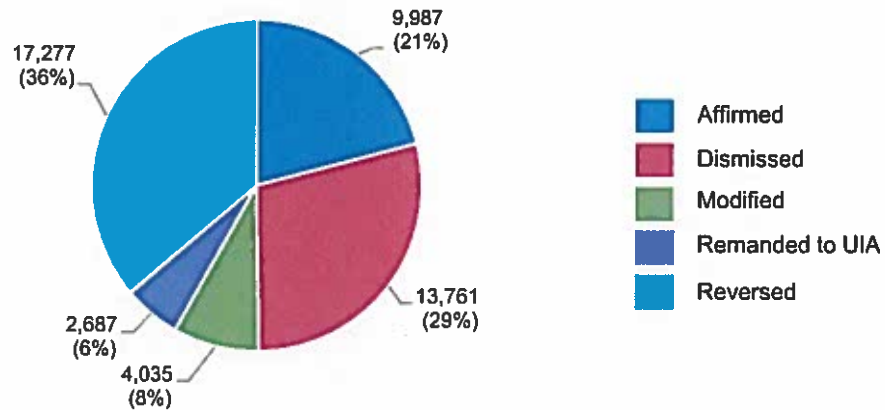
Source: Prepared by the Office of the Auditor General using data obtained from MAHS's myCaseLoad.

MICHIGAN INTEGRATED DATA AUTOMATED SYSTEM (MiDAS)
Number of Unemployment Appeals Decisions by MAHS
For the Period October 2013 Through June 2015

Appeals Decisions - Misrepresentation



Appeals Decisions - All Other



Source: Prepared by the Office of the Auditor General using data obtained from MAHS's myCaseLoad.

* See glossary at end of report for definition.