

Testimony of Suzan McKechnie, Bureau of Unemployment Compensation

Maine Department of Labor

**LD 797: An Act to Amend the Laws Regarding Work Search Efforts for Unemployment Benefits and to Eliminate Benefits for Temporary Unemployment**

To the Joint Standing Committee on Labor and Housing

Public Hearing, March 19, 2025

Good afternoon, Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor. I am Suzan McKechnie, Director for the Bureau of Unemployment Compensation at the Maine Department of Labor. I am testifying in opposition to LD 797, An Act to Amend the Laws Regarding Work Search Efforts for Unemployment Benefits and to Eliminate Benefits for Temporary Unemployment.

This bill sets a minimum of 3 work searches per week, defines which activities are included as an acceptable work search, and requires individuals filing for unemployment benefits to submit their work search no later than 5:00 pm on Friday of their claim week. It also provides which specific elements of the work search efforts are required to be provided, and for the agency to hold payment until provided. Additionally, the bill requires the Department of Labor to audit 10% of all weekly work search efforts. Lastly, it repeals 26 MRSA §1192, sub-§14, with the intent to disallow individuals from receiving unemployment compensation while temporarily unemployed. The proposal creates significant issues under State and Federal laws.

In Maine, and all but one state, the unemployment claim week begins at 12:01 am Sunday and runs through midnight on Saturday. The work search activity form is part of the weekly claim submission, which legally cannot be submitted before 12:01 am on Sunday for the claim week just completed. Individuals are not required to submit their weekly claim on Sunday, although this is the heaviest submission day, but have 14 days in which to submit their claim for a specific week. We could not implement the Friday submission as written. Furthermore, the required elements listed, specifically 26 MRSA §1192, sub-§2.B.4 requiring a point of contact for each employer, may not be available, especially when submitting applications online.

Federal law requires prompt payment of “benefits payment when due” provisions under Federal 42 U.S.C. 503(a)(1)]. The U. S. Department of Labor has interpreted this provision to mean that unless the state has issued a determination denying benefits, a claim must be paid no later than the end of the week following the week in which the issue was identified. The fact that a review or audit is underway does not override this requirement. Once an individual has been found initially eligible for benefits and is in active payment status, there is a presumption of continued eligibility to facilitate the timely payment of benefits until a

determination is issued stating otherwise. If a potential eligibility issue is detected, it triggers an adjudicatory process which, under Maine law, requires advance notice of at least 7 days to the claimant to participate in a fact-finding interview with an adjudicator to gather facts about the potential issue and determine whether benefits are payable. The proposed requirement to withhold payment until a work search review has taken place would likely exceed the Federal payment when due requirement for a large number of weekly claims. Continuing to withhold payments prior to the adjudicatory process for potential issues identified in the review process would be a violation of the Federal payment when due requirement. This could result in a Federal compliance finding, and over time an increase in Federal Unemployment Tax Act (FUTA) taxes.

The law also seeks to increase work search efforts to 3 per claim week. Requiring 3 work search efforts a week with multiple employers may not be feasible or sustainable depending on where the claimant lives or the time of year. Also, certain individuals may have specialized skills that limit the number of opportunities available to them during any given week.

Maine currently has a work search audit process, which assesses the work search provided by claimants to determine if the effort made was reasonable for the individual's location, experience, and usual occupation. Each week, 3% of weekly claims are randomly selected for work search audits. Claimants are notified and required to submit documentation or information to support the activities listed for the week being audited. The audit group contacts employers listed to verify the work search. It is important to note that it can be difficult to get confirmation from an employer that an individual contacted them to inquire about a job or submitted a resume. Not all employers retain information from individuals with whom they do not have a relationship and can neither confirm nor deny whether they were contacted. Fact finding interviews are held when work search is inadequate or not performed.

We currently have two to four staff assigned to conducting work search audits each week (depending on the time of year). The proposed increase would require an additional 10 staff at current claims levels. As the unemployment level increases, additional staff would be needed to perform this task. The fiscal note included with the testimony outlines the added annual costs.

Repealing sub-section 14 from section 1192 only removes the 6-week work search waiver currently granted to individuals who are temporarily laid off and have a definite recall date. It does not remove the ability of these individuals to collect unemployment compensation in a general sense.

Thank you for your time and attention. I would be happy to answer any questions you may have now or at a future work session.