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The Voices of Washington's Legal Community



Unemployment, Civil Legal Aid, and the COVID-19 Crisis

May 8,
2020



If the economic shock caused by the COVID-19 pandemic was the earthquake, the mounting claims of unemployment and other legal issues are the coming tsunami.

Since the week of March 7 when many began losing their jobs due to the COVID-19 pandemic, 810,538 people have filed for unemployment in Washington, according to the most recent [Employment Security Department \(ESD\) report](#). Actual payouts are another matter; about one-third (545,178 individuals) of those who have filed for unemployment still haven't received payment on their claims.

John Tirpak, executive director of the Unemployment Law Project, said his office has received thousands of calls in recent weeks just from people “who simply can't navigate the system” of the ESD phone line and website that have been overwhelmed by the crisis.

For others who've had their claims denied, pileups and slowdowns with the state's appeal process have resulted in delays of a few weeks to as long a month before they get a

Podcast

Learn more about WSBA Chief Disciplinary Counsel Doug Ende by listening to his

hearing with the [Office of Administrative Hearings \(OAH\)](#).

[interview on the South Fork Law podcast.](#)

For the first four months of 2020, according to caseload reports, the OAH had approximately the same number of ESD-related cases filed compared to 2019. The office has so far held about 200 fewer hearings, year over year; but also closed 636 fewer cases.

While offices are closed to the public, the OAH has launched a “[participant portal](#)” to access case information and submit documents electronically. OAH also posts information online so people know [what to expect at an unemployment hearing](#).

“The spike in hearings will be coming shortly, but there are plenty of hearings right now,” Tirpak said. “... “We’re still only getting a small slice of the pie that’s out there.”

Those waiting for their claim to be processed, and possibly for a chance to appeal if that claim is denied, could be stuck in limbo more than a month with no income before they are able to collect owed unemployment benefits. There are glitches to contend with, like some people who have been denied claims for not meeting requirements, even though such requirements were eased due to the COVID-19 emergency. And though the world has come to a halt, lingering tensions have led some employers to fight unemployment claims. Some employers have even told employees in customer-facing roles not to wear protective masks at work, Tirpak said. Then there are other immunocompromised or otherwise health-concerned workers who fear for their safety but worry they won’t qualify for unemployment if they choose not to show up.

“One of the biggest things I see is a misconception that just because you’re part of an essential function ... that means that you must work; you have no choice but to work,” said Tirpak.

Regardless of what’s preventing someone from working, many need legal assistance to secure their unemployment benefits. In late April, Gov. Jay Inslee released funding for expanded emergency representation of unemployment insurance claimants. With that, the Office of Civil Legal Aid (OCLA) has begun recruiting as many as 100 lawyers who will each provide legal assistance to at least 20 clients on their unemployment insurance claims.


About 65 lawyers have signed up so far, according to OCLA Director James Bamberger. “We are well on our way and we are thrilled with the response—and we need more.”

COVID-19 is presenting other challenges to civil legal aid. In mid-April, former Washington Supreme Court Chief Justice Mary Fairhurst and Legal Foundation of Washington Board Member Fred Rivera wrote in an op-ed for the *Seattle Times* that [“coronavirus will overwhelm our civil legal-aid system.”](#)

Legal aid funding is partially tied to [Interest on Lawyers Trust Accounts \(IOLTA\)](#), but with the Federal Reserve recently reducing interest rates to nearly 0 percent in response to the crisis, advocates are looking at other ways to fill the gap. The Equal Justice Coalition recently joined other organizations around the country to [advocate for federal funding](#), while at the local level advocates will likely look to the state Legislature during its expected special session later this year.

For more information on unemployment benefits, check out the Unemployment Law Project’s recurring webinar, [“Answers to Questions About COVID-19 and Unemployment Benefits,”](#) and watch recorded versions of past webinars. Members of the public can also find a variety of [free legal help options](#) in Washington at the [WSBA COVID-19 resources page](#), and legal professionals are encouraged to check out the available [legal aid volunteer opportunities](#).

About the Author

 **[Michael Cherry](#)**. Cherry is an attorney who helps clients address privacy and cybersecurity matters at his firm, Lexquiro PLLC. After working in technology for many years, Cherry attended the Seattle University School of Law where he attained a J.D. and an LLM in Innovation and Technology Law. Cherry uses Apple and Windows devices in his law firm. As Lexquiro PLLC is a virtual firm, without a physical office, Cherry works remotely with his clients every day.

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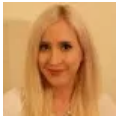
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