

DC Testimony for Public Oversight Hearing on DC Unemployment
September 16, 2020

Greetings to the Committee and thank you for the opportunity to testify. My name is AK Adams, and I am a self-employed small business owner living and working in Washington DC.

Pre-COVID, I had a business that designed, built and operated sound systems for live music venues, restaurants and bars in DC; my clients include Songbyrd Music House, Local 16, Dupont Underground, Marvin Social, the DC Funk Parade and Capital Jazz Fest.

Because of the pandemic and the City's restrictions on social gatherings and the closure of non-essential businesses, my clients are mostly closed, with some having closed permanently, and my business is currently unable to operate. As per the Mayor's statement at last week's briefing, there is currently "no timeline" on when my past, present and future clients will be able to resume operations.

I applied for PUA benefits in August, as I didn't fully realize that the CARES ACT passed in April also provided relief for self-employed independent contractors like myself. I submitted my PUA application in August, and, as directed, filled out weekly certifications dating back to March, when my business was affected by the COVID crisis, with the understanding that retroactive FPUC and PUA payments would be made based on the application and the extensive documentation provided, including tax returns, 1099 forms, invoices, and contracts.

After several weeks of waiting, and spending several hours on hold to speak with DOES employees, I began receiving the minimum weekly benefit amount of \$179 in September, and have been advised that the retroactive PUA payments will be processed eventually.

I am grateful for the hard work and diligent effort DOES has put in so far, however, when I realized that there are also many other DC residents in the same predicament, some of whom have been waiting since April, I decided to provide testimony in today's hearing in support of a fair and fast resolution of this issue.

I read with great interest Dr. Unique's testimony for this hearing, and was impressed to hear about how DOES has made incredible strides in rising to this challenge, and glad to hear that she views DOES as "economic first responders", which is an appropriate perspective.

I understand that DC has been treated unfairly by the federal government, being treated like a territory rather than its usual state-level consideration for Federal Emergency & Disaster Relief. I am also aware of recent reports of international scam artists targeting state unemployment programs with fraudulent claims, so I appreciate the need for DOES to maintain the integrity of the process.

However, based on my specific interactions with DOES, I am concerned that there may be some cultural misunderstandings and learning curves involved in their response which may be causing some of these delays, which Dr. Unique confirmed in her testimony.

As an analogy to DOES' new role as economic first responder:

If an apartment building catches fire, and all of the residents are safely evacuated from the burning building, when the fire department arrives, they do not ask each resident for a color photograph and inventory of their apartment before deciding whether to extinguish the blaze. As first responders, their primary duty is to PUT THE FIRE OUT.

When Dr. Unique speaks of DOES's responsibility to "protect the unemployment trust fund" it indicates that there may be a misunderstanding of DC/DOES's primary responsibility in this case of administering federal disaster relief to DC residents in the midst of a global pandemic.

Since Dr. Unique stated last week that DOES "stands ready" to distribute the newly approved \$300 payments from the LWAP program, I, like every other PUA applicant still waiting for the first round of payments, must question why DOES has not yet handled these claims before making such public statements?

In a related vein, when hearing the Mayor rightfully calling out the federal government, saying "they need to step up and do their part" to continue the \$600/weekly federal FPUC supplement, I would first like to know that DC is stepping up and doing its own part by making sure that the first round of expired FPUC payments have been fully distributed.

According to the coronavirus.dc.gov website, the processing of FPUC claims went from a peak of nearly 180,000 weekly payments in late March to barely 180 weekly payments in September. And while the FPUC program expired at the end of July, all available documentation indicates that retroactive payments will be made to all qualified applicants.

It seems that while regular employees on regular UI have received these FPUC payments, many eligible residents who qualify for FPUC payments as independent contractors through the expanded PUA provisions have still not received FPUC payments many months later.

I find it hard to believe that this could be intentional, but it does seem that DOES has established administrative requirements for processing PUA back pay claims that it does not have the operational ability to process in a timely fashion. First, PUA applicants were required to apply for Regular UI and to be denied regular UI in order to qualify for PUA. Then we were asked to provide "wage documentation" as part of the PUA application.

After I submitted my application and documentation, and filled out claim forms for every week my business was affected by COVID measures, I received confusing requests for further information which indicated a potential problem. One email asked for a “letter of separation from my last employer”, which is confusing for a self-employed small business owner, and functionally irrelevant.

Another form seemed to suggest that PUA benefits would be based on our “net profits” rather than gross income, which would be like basing Regular UI on a claimant’s “discretionary income” rather than the take-home pay most people survive on.

These questions and requests indicate to me that DOES may not have a complete grasp on the crucial differences between employees and entrepreneurs, and that this misunderstanding may be causing significant delays in processing relief payments.

Income documentation for independent contractors is far more complicated than the singular w2 forms involved with regular employees, and I can imagine that DOES staff and examiners may be overwhelmed with having to process new types of data & documents.

DOES has never been tasked with analyzing & evaluating small business finances, independent contractors and gig economy workers, and while it’s amazing that DOES staff have learned so much so quickly, and stepped up to handle such incredible increases in claims and inquiries, there are still hundreds, perhaps thousands of DC residents that have not received the pandemic relief help Congress authorized in April.

Now is not the time for administrative and bureaucratic concerns to trump the urgent needs of DC’s self-employed sector, which includes the “creative economy” Mayor Bowser often encourages as one of DC’s strong points.

The Creative Economy is being disproportionately crushed by the city’s COVID-related measures. Live music, theater, comedy, art galleries, movie theaters, etc., have all been drastically affected by the Mayor’s Emergency declaration in March limiting public gatherings and closing non-essential businesses, which legally punctuated a growing crisis for this once-vital sector, and being asked now to explain and provide documentation for “when did COVID affect your business?” also seems bureaucratically redundant.

DOES has all the information it needs to fulfill its role as “economic first responder” to DC PUA applicants, and should expedite its current case by case” claims review process to batch process all outstanding PUA backpay claims and FPUC payments.

If staffing resources are an issue, DOES could simply focus its in-depth fact-finding efforts on claims originating from non-DC residents and on claims before the Mayor’s Emergency Declaration. DOES could use its online estimator tool to provide provisional

figures for PUA payments for all existing claims, rather than the default minimum \$179 payments being issued. When I put in my Income figures as part of my PUA application, the estimator gave a much higher figure for estimated relief than the minimum \$179.

When the pandemic is over, and we can all return to our regularly scheduled livelihoods, without restrictions, let that be the time for accounting debates, bureaucratic fact-finding and appropriate resolutions. For DOES to be withholding relief from so many DC residents seems immoral, so I am sure it must be some kind of unintended consequences of these challenging times, and simply rectified by a mayoral directive to immediately facilitate and expedite the processing of all outstanding PUA claims.

Releasing these federally provided relief funds to DC residents still sorely in need of them will also benefit the local economy as probably most of these funds will be spent with the local businesses, shops and service providers that are still functioning. Mayor Bowser and DOES should consider the “Creative Economy” as a vital network of small business, cooperation and community, which needs and deserves all the available help it can get right now.

Please help us help each other so we can all get through this.

This is a great opportunity for Mayor Bowser to walk the talk about supporting DC’s creative economy at a time when we need help as much as DC’s traditional economy does. And it’s a great opportunity for DOES to fully step up to its new role as economic first responder by fulfilling its primary responsibility to distribute federal relief to DC residents, just like all other states have done.

Most importantly, DC must recognize that THIS IS STILL AN EMERGENCY, and while many have managed to sustain their regular employment and earnings, many others have not, through no fault of their own, in cooperating with the extreme, yet sensible and effective, measures DC has taken to combat this pandemic.

In conclusion, I continue to commend the positive and progressive action taken by Mayor Bowser, the Council and the Department of Employment Services, but I strongly urge these public employees to more completely consider the citizens they represent, and their primary responsibility to equitably distribute federally-mandated relief during this pandemic.

Please expedite all reasonably compliant claims currently backlogged since April, release all outstanding FPUC payments owed to PUA-qualified applicants and bring all outstanding claims up to date by any means necessary.

Thank you for the opportunity to testify today, and for your continued hard work, consideration and strong representation of DC.