
PUBLIC HEARING TO
CONSIDER TESTIMONY CONVERTING EMERGENCY RULES ADOPTED
DURING COVID-19 PANDEMIC

January 27, 2022

Via Zoom Videoconference

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APPEARANCES :

FOR EMPLOYMENT
SECURITY DEPARTMENT
(Via Zoom):

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1 BE IT REMEMBERED that on Thursday, January 27,
2 2022, at 9:02 a.m., via Zoom videoconference, before REBECCA
3 S. LINDAUER, Certified Court Reporter, in and for the State
4 of Washington, the following proceedings were had, to wit:

5
6 MR. DYE: Pursuant to the authority given under
7 Washington State law, this hearing is hereby convened. For
8 the record, this hearing is beginning at 9:02 a.m. on
9 January 27, 2022. This hearing is convened to consider
10 testimony for converting emergency rules adopted during the
11 COVID-19 pandemic to permanent rules. This hearing includes
12 rules from Phase 1, Phase 3, and Phase 4. As a note, the
13 topics covered in Phase 2 have either been addressed by the
14 legislature in Senate Bill 5061 in the 2021 session or were
15 changed in subsequent phases.

16 Notice of this hearing was published in the Washington
17 State Register as WSR 22-01-191, WSR 22-01-204, and
18 WSR 22-01-092.

19 My name is Josh Dye, and I'm the legislation and rules
20 coordinator for the Washington State Employment Security
21 Department's Legal Services Unit. I represent Commissioner
22 Cami Feek as hearing officer presiding at the public
23 rulemaking hearing. Also in attendance is Scott Michael
24 with Employment Security.

25 And, Scott, if you would just please introduce

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1 yourself.

2 MR. MICHAEL: Hello, everyone. My name is Scott
3 Michael, and I am the legal services manager for the
4 Employment Security Department.

5 MR. DYE: Thank you. Please be advised that this
6 hearing is being transcribed, and the transcript will become
7 part of the official rulemaking file. This hearing is
8 convened to consider written submissions and oral testimony
9 presented on the proposal.

10 A concise explanatory statement of the agency's reasons
11 for adoption of the rules, including a summary and response
12 to all comments received for each rule, will be sent to all
13 requesting and commenting parties and placed in the
14 permanent rulemaking file. The concise explanatory
15 statement for the rule will also be published on the
16 agency's rulemaking webpage, which is
17 www.esd.wa.gov/newsroom/rulemaking.

18 Now for a brief explanation of the proposed rule. In
19 February of 2020 Governor Inslee proclaimed a state of
20 emergency in Washington regarding COVID-19. The Employment
21 Security Department then filed a series of emergency rules
22 to support the State's response.

23 The department plans to adopt permanent rulemaking
24 regarding the first, third, and fourth phase of these
25 emergency rules to provide flexibility for employers and

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1 claimants in the event of a declared public health
2 emergency; allow for greater access to standby and shared
3 work so more employers and employees can benefit from those
4 rules; protect the integrity of the unemployment trust fund
5 by temporarily pausing the payment of benefits on
6 potentially fraudulent claims; update how a petition for
7 judicial review on the department is served; update the
8 criteria for when a claimant can backdate a request to
9 reopen their unemployment claim; clarify that combined-wage
10 claims in the second quarter of 2020 are not changing; allow
11 for overpayments of certain CARES Act benefits to be waived
12 on a blanket basis; and clarify when claimants do not have
13 to serve a waiting week.

14 With that, I'll open the floor for comments from the
15 public. As I call out each participant that is signed in,
16 please -- using either your name or phone number depending
17 on what I have available to me in the participant channel --
18 please clearly state and spell your name and also list any
19 organizations that you represent, if any. If you do not
20 wish to make a comment for the record, please let me know
21 that as well.

22 So we will start. I have the phone number ending 4320.
23 If you would please just state your name and any comments
24 that you have.

25 MS. KENNEDY: I think that's me, Nicole K.

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1 MR. DYE: If you would just state and spell your
2 name for the court reporter, please.

3 MS. KENNEDY: Yes, Nicole Kennedy, N-i-c-o-l-e
4 K-e-n-n-e-d-y, and I am representing myself. We just kind
5 of prepared a little statement to explain what we've gone
6 through, and so I'm just going to read that now.

7 My name is Nicole Kennedy, and I live in Shoreline,
8 Washington. I'm asking you to include a waiver of
9 overpayment in Phase 4, Section 3. Collecting the types of
10 overpayments is against equity and good conscience.
11 Overpayment notices have negatively affected the well-being
12 of so many of us who have had to rely on our system during
13 the pandemic.

14 My story with ESD starts in March of 2020, like so many
15 people who are here today. I began receiving PUA
16 assistance, and then when the fraud from overseas hit,
17 everything stopped and payments froze. I had many
18 conversations with different staff from ESD providing
19 conflicting information, some very cruel who hung up on me
20 and some absolute saints that helped and called back.

21 Finally, after investigation and then discovering that
22 the CARE Act protected me because I was taking care of a
23 child that was unable to attend school or go to daycare, it
24 started up again. I was able to pay bills for me and my
25 daughter, and then came the overpayment notice, which was

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1 also much larger than the sum of money that I had received
2 from ESD.

3 I spoke to more reps instructing me not to pay it back.
4 After all, the amount that was requested back was more than
5 the amount I received and more than what was stated on my
6 W-2 for taxes when I got my form from the government. It
7 was less than the amount that they were claiming that I
8 collected from them, which is also confusing.

9 I wrote an appeal, and since then I have received a
10 letter back requesting a smaller amount, but it's unclear if
11 that's the final amount or not. I've had emailed letters
12 through the ESD site requesting more details of my case, and
13 that I was -- they wouldn't tell me how I would be notified
14 of a decision.

15 The stress and anxiety that this has added to our lives
16 has been unbearable at times. I've had panic attacks in the
17 middle of the night, anxiety that comes without warning, and
18 have been put on a slew of medication. Even on a calm day
19 with no negative influences or triggers just, like, going to
20 the park with my child is unbearable at times, not knowing
21 if I'll be able to pay utilities or rent on top of having to
22 give back more money than I currently have because I've used
23 these funds to help us survive not only the pandemic but
24 dangerous individuals who have refused to believe the
25 science purposely endanger others and taken what they have

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1 interpreted as laws to justify their action to go as far as
2 suing anyone who disagrees with them or their beliefs has
3 increased stress, which is impossible to hide from my child
4 who is in tune to emotion.

5 Even attempting to pay this overpayment will guarantee
6 in making us homeless. I've been diagnosed with depression
7 and anxiety due to the impact of these constant issues and
8 changing requirements. I beg and plead with you to forgive
9 these overpayments that are partially based on my personal
10 experiences and mental health changes but also on a grander
11 scale they impact so many lives negatively impacted in the
12 past two -- going on three years of this pandemic.

13 The confusion, hate, nonsensical, and unexplainable
14 actions of so many citizens living and reacting in fear of
15 death, retaliation, and conflicting influences from so many
16 outlets.

17 Help us move forward in a positive way for ourselves,
18 our community, our economy, families, and loved ones. Thank
19 you for your time and consideration.

20 MR. DYE: Thank you, Nicole. And then I'll put in
21 the chat but if you have any written comments you would like
22 to submit along with your oral testimony, you can send it to
23 rules -- r-u-l-e-s - @esd.wa.gov.

24 MS. KENNEDY: Thank you.

25 MR. DYE: We will move to our next participant,

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1 Sara Gardner.

2 MS. GARDNER: Can you hear me?

3 MR. DYE: Yes, ma'am. If you would just spell
4 your name for the court reporter, and you may begin.

5 MS. GARDNER: Yes, good morning. My name is Sara
6 Gardner. That's S-a-r-a and my last name, Gardner,
7 G-a-r-d-n-e-r, and I live in Spokane, Washington.

8 There are a number of us here today to urge you to add
9 to Phase 4, Section 3 a permanent waiver of overpayments
10 associated with the program -- with a change in program the
11 claim is being paid out from. I received this type of
12 overpayment notice because I was originally paid through PUA
13 and due to no fault of my mine was subsequently determined
14 to have been eligible for standard unemployment.

15 In November of 2020 I received letters stating I had
16 been taken off of PUA, put onto regular UI, which then
17 lowered my weekly benefit amount. This caused several
18 overpayments to occur.

19 In December 2020 I spoke with an ESD representative,
20 Colleen, who claimed if I filled out a waiver it would
21 reduce my overpayment to \$79. That never happened. She had
22 also made me aware that I was eligible for some past claims
23 due to leaving my temporary position to care for my father.
24 That never happened either.

25 During that time, I received at least 13 overpayment

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1 letters ranging in amounts from zero all the way to \$3,500.

2 I, of course, appealed and repeatedly attempted to contact
3 ESD to get the matter resolved. That also did not happen.

4 Now, let's fast-forward to November 22, 2021, when I
5 spoke with Shannon. She promised to open the old claims and
6 stated that if the overpayment was not off my account by
7 Monday, November 29, 2021, to call the collections
8 department, and they could take it off. This information
9 was not correct. This started a number of calls from me to
10 ESD to handle this situation. I spoke with James, Laurie,
11 Jamie, Sam, Kato, Robert, and Misty, all promising to mark
12 my case and get back with me.

13 During this time, ESD intercepted my current payments
14 for my current claim, sending me a redetermination letter
15 after over a year without sending my case to a hearing or to
16 speak with me directly and leaving me with no income for
17 several weeks right before the holidays and the first
18 holiday after my father passed. We did not need additional
19 stress to this holiday.

20 After intercepting over \$751 of my new claim, they also
21 added a new overpayment of \$109. Every time I see a notice
22 in my inbox from ESD, it makes my heart sink and my stomach
23 turn into knots even before I open the letter, not knowing
24 what to expect. I do not have confidence in the fact that I
25 will not be able to have this issue resolved and not have

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1 another overpayment added.

2 Please add a waiver to all overpayments associated with
3 the change in this program to Phase 4, Section 3 so that I
4 can get out of this endless spiral of notices, waivers,
5 calls, and hearing dates. Thank you for hearing me out.

6 MR. DYE: Thank you, Sara.

7 We will now move to Chelsea Rustad.

8 MS. RUSTAD: Rustad. Yeah, that's me.

9 MR. DYE: Hi, Chelsea. If you would just spell
10 your name for the court reporter and you may begin.

11 MS. RUSTAD: Yeah. My first name Chelsea is
12 spelled C-h-e-l-s-e-a, last name R-u-s-t-a-d.

13 So my name is Chelsea Rustad, and I live in Tumwater,
14 Washington, and I am asking you to please include a waiver
15 of overpayment to Phase 4, Section 3.

16 Just to give some backstory, my husband Ben was out of
17 work in 2020 when COVID hit, and he received pandemic
18 unemployment assistance. Then, over a year after the PUA
19 ended, in December of 2021 he received an overpayment notice
20 from WA ESD in the mail stating that he now owed \$7,904, and
21 that if he does not pay it, ESD will file a lien in the
22 superior court against our property or garnish his wages and
23 bank account. It also says that interest will be charged
24 each month, even if payments are made on time.

25 It is unbelievable to me that ESD is actually trying to

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1 fraudulently make money off of people emerging from unstable
2 employment situations who had the audacity to apply for the
3 assistance they qualified for and then refuses to answer the
4 phone when he tries to reach a human being.

5 COVID isn't over by a long shot, and these payments are
6 eating into his savings, making me worry what would happen
7 if either of us were to get sick. We didn't ask ESD for a
8 loan in 2020. We needed help without hidden strings
9 attached.

10 The only ethical thing for the ESD to do right now is
11 to alleviate the financial burden weighing on working class
12 Washingtonians, not pile on to it. This must entail the
13 immediate and complete forgiveness of WA ESD overpayments.
14 Please add a full waiver of overpayments to Phase 4,
15 Section 3. Thank you.

16 MR. DYE: Thank you, Chelsea. I appreciate you
17 sharing your story.

18 I will move now to Erin Harvey.

19 MS. HERVEY: Hi, yes. My name is Erin Hervey.
20 That's E-r-i-n.

21 MR. DYE: I'm sorry about that, Erin.

22 MS. HERVEY: That's okay. And then it's -- so my
23 name is Erin, E-r-i-n, last name H-e-r-v-e-y.

24 Again, good morning. I live in Yelm.

25 MR. DYE: Go ahead.

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1 MS. HERVEY: Sorry. I was a substitute bus
2 driver, and my job ended on March 13th of 2020 when the
3 governor shut it down. On March 17th I immediately applied
4 for unemployment. I'm here in support of adding to those
5 proposed changes of a complete waiver of all overpayments
6 associated.

7 My experience with unemployment has not been a good
8 one. I applied for unemployment, and I applied more than
9 six times until I was approved for the pandemic unemployment
10 the week of April 11th of 2020. I then waited until
11 June 18th, and I was finally paid for all the weeks I had
12 been waiting for.

13 On April 21st of 2020, I was asked to send in my
14 unemployment hours -- or my self-employment hours, excuse
15 me, from previous years because I was told that my amount
16 was going to go from \$188 to \$235 each week. Then I was
17 denied a month and a half later due to a standby week, and
18 unemployment was making the decision on if I should get paid
19 it or not.

20 On July 4th of 2020, I was sent a letter that stated I
21 would receive zero dollars for each week from March 15th to
22 March 13th, and then I was fighting it, trying to figure out
23 what I had to do to pay my bills and stressing out like
24 everybody else.

25 Then, on July 16th, I received another letter telling

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1 me that my pandemic unemployment has been approved again for
2 those same weeks. When I would try to call and talk to
3 someone, I was either hung up on or -- by the automated
4 system or when there was the one chance you could get
5 through to call, I was on hold for three hours to talk with
6 somebody for 15 minutes and them telling me that they can't
7 do anything else for me at this time.

8 On November 9 of 2020, I received a letter stating that
9 I was no longer eligible for the pandemic unemployment from
10 April 5th of 2020 to April 17th because I qualified for
11 regular unemployment, and that I had an overpayment of
12 \$7,050 that I had to pay back. The emotions I went
13 through had gone -- the emotions I had to go through were so
14 overwhelming that I had to be put on antidepressants because
15 I was at home due to COVID during a pandemic, and I was
16 being told seven months later I had an overpayment that I
17 had no control over and now I have to pay it all back. I
18 can tell you I was shocked and speechless and the fact that
19 unemployment wanted me to pay this all back right away,
20 charging me interest and everything.

21 I filed my appeal, which I am still waiting for, and I
22 received my first bill stating that I owed \$1,410, and I had
23 to pay that by March 1st, and I couldn't afford to make the
24 payments while I was still on unemployment. I have not
25 heard anything back about a court date, and so, therefore, I

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1 had to pay it.

2 I then received more letters telling me that I needed
3 to pay my amount or I was going to receive a prelien amount
4 for the \$14,038.20 because I couldn't pay the full amount.
5 My unemployment wages were also garnished as well.

6 I was told from January 10th to August 21st that I was
7 disqualified, and I would no longer receive unemployment
8 benefits as well. I still claimed my unemployment like I
9 was told when I finally could go back to work and when
10 schools opened back up again.

11 My own personal experience with this has been a
12 nightmare, and I know that there are others that have also
13 had to go through the same thing. Money has been garnished
14 from me already that I am still waiting for a court date
15 for. I should not be held responsible for something that
16 was decided seven months later when the pandemic started,
17 which is why I'm asking you to support and complete --
18 sorry, tongue tied -- a waiver for these types of
19 overpayments during the state of emergency. Thank you.

20 MR. DYE: Okay. Thank you so much.

21 We have a lot of folks signed in; so I'm going to -- in
22 an effort to make sure that everybody has a chance to say
23 their peace, we have to limit testimony to two minutes. I
24 apologize for that, but I do appreciate everybody coming in,
25 and we will move next to Ethan Olson.

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1 Ethan, if you would go ahead, and your two minutes
2 begins now.

3 MR. OLSON: My name is Ethan Olson, E-t-h-a-n
4 O-l-s-o-n. I live in Gig Harbor, Washington.

5 I'm asking you to include a waiver of overpayments in
6 Phase 4, Section 3. Collecting these types of overpayments
7 is against equity and good conscience. Overpayment notices
8 have negatively affected the well-being of so many of us who
9 have had to rely on assistance during a pandemic.

10 I initially received a monthly overpayment statement
11 December 11th of 2020 for thousands of dollars. I was
12 completely confused. There was no reason that I knew of for
13 the potential overpayment.

14 I appealed this, and in February of 2021 Washington
15 State unemployment called me and told me that I needed to
16 file a UI claim instead of a PUA claim, which is supposed to
17 get rid of the overpayment. This got rid of some of the
18 overpayment, but there was still \$3,000 left. This has
19 caused me a lot of ongoing stress because, first off, it has
20 been quite difficult to contact Washington unemployment. I
21 have sat on the phone waiting for someone to answer who
22 could help me with no success multiple times.

23 I don't have the space in my schedule to spend hours on
24 the phone. I'm currently a college student and pay for
25 tuition, textbooks, groceries and supplies, and gas, car

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1 insurance, and maintenance all on my own; so I don't have
2 the extra money laying around. It also doesn't help the
3 stress when I remember that I'm supposed to pay back
4 thousands of dollars with monthly occurring interest. This
5 has contributed to most of my economic anxiety.

6 I was also given a 1099-D for income for tax reporting
7 purposes that Washington State issued while also trying to
8 get -- take the money back. This would require me to pay
9 tax on money they tried to take back from me, further
10 increasing my financial burden and anxiety about the
11 situation.

12 Please add a full waiver of overpayments to Phase 4,
13 Section 3. Forgiving overpayments will help Washington move
14 forward from the setbacks with COVID. Thank you.

15 MR. DYE: Thank you, Ethan. That's exactly two
16 minutes. Good job.

17 Moving on, Larissa Flores, did you want to give your
18 testimony?

19 MS. FLORES: No. I don't have a statement. I'm
20 just here in support of the waiver of overpayments to
21 Phase 4, Section 3.

22 MR. DYE: Okay. Thank you very much.

23 So next on the list I have signed in AFAND.

24 MR. ANDRUS: Yeah, that's me.

25 MR. DYE: Go ahead, please.

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1 MR. ANDRUS: Those are my initials. Ashby Andrus
2 is my name.

3 THE COURT REPORTER: Can you spell your name,
4 please.

5 MR. ANDRUS: I'll keep this brief. I'm a college
6 student.

7 THE COURT REPORTER: Hold on, wait. Stop. I need
8 you to spell your name.

9 MR. ANDRUS: It's A-s-h-b-y A-n-d-r-u-s. I'll
10 keep it simple. I've been a student. I originally lost my
11 job in 2018, then I got claim benefits and so forth. I lost
12 my mom two years ago, and I just lost my ex-wife. I didn't
13 stop going to school. I continued on, and I continued to
14 claim.

15 Now, about a month ago, I get this threatening letter
16 saying I owe \$20,000 for pandemic relief. I called them.
17 After hours and hours, I was told my account was notified,
18 that my documentation was fine, that I don't owe anything;
19 so I'm at a loss.

20 Plus, in addition to all the stress that everybody else
21 mentioned, same thing applies here. So I feel I need to get
22 that waived because, No. 1, I was taking care of a bereaved
23 parent, and I have a house that's falling down that I need
24 to spend some emergency money on, and it's a nightmare.
25 Thanks for letting me speak.

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1 MR. DYE: I appreciate you taking the time. We
2 will move to our next one.

3 Chris -- I'll get this one wrong -- Vialpando?

4 MR. VIALPANDO: Yeah, it's Chris Vialpando.

5 MR. DYE: Yes, go ahead.

6 MR. VIALPANDO: I don't have anything formally
7 prepared; so I don't know if I want to go on record.

8 MR. DYE: Okay.

9 MR. VIALPANDO: But, you know, my story is very
10 similar to everyone that has been speaking so far. I
11 actually probably don't have much more to add because it's
12 all basically the same story. I have had a lot of
13 conflicting messages from ESD ever since I applied for it
14 and back and forth with UI, PUA. I mean, it's the same
15 story; so I'm sure I -- you know, I'm sure I can relate to
16 pretty much everyone else here, and I'm in support for
17 everybody here.

18 MR. DYE: Thank you, Chris. Would you spell your
19 name right quick so we can make sure that we have you --

20 MR. VIALPANDO: Sure, yeah. Chris Vialpando,
21 C-h-r-i-s V-i-a-l-p-a-n-d-o.

22 MR. DYE: Thank you so much.

23 And I will move next to Jeffrey Gustaveson.

24 MR. GUSTAVESON: Hi, there. I don't have a
25 comment at this time.

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1 MR. DYE: Would you like your name added to the
2 list of participants?

3 MR. GUSTAVESON: Sure. J-e-f-f-r-e-y
4 G-u-s-t-a-v-e-s-o-n.

5 MR. DYE: Thank you so much.

6 Next I have John Neal Williams, Jr.

7 MR. WILLIAMS: Yes, that's me. John Williams,
8 J-o-h-n W-i-l-l-i-a-m-s.

9 And, yeah, I was here for the same reason that most of
10 the other people in the meeting are here, asking for a
11 waiver of the overpayment in Phase 4, Section 3 of the
12 proposed rules.

13 For me, my personal story, I don't really have one
14 compared to what you've already heard. I just wanted to say
15 that clearly we've seen the negative, like, financial and
16 mental impacts that these overpayments are having on people
17 who just have been trying their best to navigate, you know,
18 the confusing unemployment system we have in place, and
19 we're trying to get through the pandemic basically.

20 I think forgiving these overpayments is the best way
21 for the state to move forward, especially considering most
22 of the money given out was actually from, you know, federal
23 assistance that was given to the state to help people get
24 through the pandemic. A lot of these overpayments are
25 coming out as a result of mistakes the state made with the

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1 setup of ESD and, you know, the fraud that they went
2 through, the mistakes by the system. I really think it's
3 the best choice to move forward. Thanks for letting me
4 speak.

5 MR. DYE: Thank you so much, John.

6 Moving quickly now to Lexy Salas.

7 MS. SALAS: I'm also here in support of the
8 overpayment waivers. I don't have a statement made. I just
9 wanted to check in because we're running low on time. We
10 will be extending the meeting time so we can make sure
11 everyone is able to share their prepared testimony.

12 MR. DYE: Yeah. We're going to do what we can to
13 get it started. We also have another meeting but we'll --
14 I'll -- yes. Thank you so much, Lexy.

15 And I'm going to call on Scott Michael from ESD.

16 MR. MICHAEL: Yeah. And just so everyone who has
17 spoken so far and told us so candidly about their
18 frustrating experiences, I am going to invite all of you who
19 have shared those experiences to send me a message in the
20 chat. Make sure that you don't send it to everyone, that
21 you click the dropdown menu and select only my name, Scott
22 Michael, and provide me with your claimant ID.

23 I will forward that on to some individuals who will
24 take a special look at your claim and see what needs to be
25 done; so send it to me. Don't send it to everyone because

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1 we don't want to share your information with everybody, but
2 if you do share it with me, I'll get it off to other people
3 who can help you with your claim.

4 MR. DYE: Thank you, Scott.

5 Moving down to Sonia Lopez.

6 MS. LOPEZ: Thank you for having me today. I just
7 want to say that I'm here to support the waiver for
8 overpayments. We appreciate your time on this, for this
9 meeting. I have a lot to say, but I prefer to just let you
10 know that we need your help to add this waiver in Section 3.

11 MR. DYE: Thank you, Sonia. I appreciate you
12 taking the time.

13 MS. LOPEZ: Thank you. No, we appreciate you.
14 Thank you so much.

15 MR. DYE: All right. I have a phone number ending
16 in 1740.

17 (Zoom transmission dropped.)

18 (Recessed at 9:36 a.m.)

19 (Reconvened at 9:38 a.m.)

20 MR. DYE: Sorry for the technical glitch, but I
21 appreciate everybody's patience and staying with us.

22 We will continue with the phone number ending 1740.
23 Again, if you would make sure you give your name and spell
24 it for the court reporter, and the floor is yours.

25 MS. STAVEE: Okay. Thank you. Hi, good morning.

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1 My name is Janice Stavee. That's J-a-n-i-c-e. Stavee, S as
2 in Sam, T as in Tom, A as apple, V as in Victor, E as in
3 Edward, E as in Edward. As you can tell, I have to spell
4 that quite often.

5 I live in Seattle, Washington, West Seattle to be
6 specific. West Seattle is very expensive to live in. I'm
7 asking you to include a waiver of overpayments in Phase 4,
8 Section 3 because collecting these type of overpayments
9 during the pandemic is just -- it's against good conscience.
10 Overpayments have negatively affected all of us, and you've
11 heard that already.

12 I'm not as efficient as some of the other people like
13 Nicole and stuff like that. I am a 68-year-old woman. I
14 still work, and I get social security; so I'm not destitute,
15 but I -- during September -- or March of 2020 my employer
16 cut my work hours down from no more than six hours a week,
17 sometimes going down to one hour a week.

18 When I started sending messages to employment security,
19 I asked them to please -- I don't want an overpayment. I
20 know what overpayments can do to people. Do not pay me
21 if I am not eligible. I never got a response.

22 And I have to do sedentary work due to a work accident
23 that occurred several years ago. I'm hard of hearing now,
24 and I was in customer service for decades, and I can no
25 longer do customer service over the phone, and I also have a

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1 problem with lifting 10 to 15 pounds.

2 When I started receiving overpayment notices, I felt
3 like crying and having a heart attack, seriously. A person
4 cannot reach anyone on the 800 number, and if you do, you
5 wind up hanging on hold forever, going to voicemail hell, or
6 you just get hung up on. Nobody talks to you.

7 The employment security offices were not open.
8 WorkSource was not open. Libraries weren't open. I don't
9 own a PC or a printer; so I can't print these things out,
10 and employment security's website is really, really behind
11 the times. I asked that everything be sent to me in paper.
12 They did not. So if they would have just answered my
13 communications in the beginning of July, I wouldn't have an
14 overpayment. Send me a letter or call me with an ID'd phone
15 number so it's not a robocall, and call back, not an
16 automatic call. I would have stopped claiming. Eventually
17 I just stopped claiming.

18 I've recently received in December two monthly
19 statements, overpayment statements, and they both say your
20 overpayment is paid in full. And I just kind of go, hey, I
21 don't think so, but the statement letters contradict each
22 other. They're confusing. They're incorrect, and they
23 don't make sense. The statements don't account for the
24 federal subsidy people repay, and I had taxes in my
25 unemployment taken out, but they want the full amount back.

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1 So there's the \$300 subsidy, federal subsidy, and my taxes,
2 and so they said, okay. We paid you \$653, or something like
3 that, and they want the whole overpayment back.

4 I think I have an overpayment of over \$2,000. I can't
5 tell with all of this. Like I said, the statements are
6 contradictory, confusing. The statements don't account for
7 certain things, and it's so overwhelming to try to read
8 their mind and get the true answers. So I was just -- like
9 I said, it's very overwhelming, and it's nerve-racking. I
10 feel like having a heart attack half the time or panic
11 attacks. Just trying to get documentation from your website
12 is difficult. Like I said, I don't have a computer or
13 printer. I would have to go to a library.

14 And I've submitted two appeals so far, and in order to
15 do that, I have to drive from West Seattle to Rainier and go
16 to the nearby WorkSource and fax off this information to
17 them. Download the appeal, print it out, write it out, and
18 fax it to OAH, I guess, is who it is.

19 I did submit an appeal for this overpayment, and that
20 was in October. I have just received an OAH packet with --
21 going to court in February 8th, which gives me no turnaround
22 time. I can't get the exhibits ready. Do I need a lawyer?
23 Things like that.

24 So I'm asking that you please permit the waiver of
25 overpayments in Phase 4, Section 3 in particular because

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1 people cannot afford it. They just can't live. And like I
2 said, like some other people say, you're charged interest.
3 Seriously? Is the state a bank? Anyway, I'm sorry if I'm
4 going off the rails, but I do want to thank you for
5 listening to me, and I guess that's it. Thank you so much,
6 sir.

7 MR. DYE: Thank you. I appreciate you taking the
8 time to join us to share your experience.

9 So moving to phone number ending in 4320.

10 THE COURT REPORTER: That's me.

11 MR. DYE: Okay. Sorry.

12 Did I miss anybody? Is there anyone else that did not
13 have the opportunity to speak or would like to add?

14 UNIDENTIFIED SPEAKER: I think the only thing we
15 are looking for now is when we can expect a response.

16 MS. STAVEE: Yes.

17 MR. DYE: So we will -- actually, we're going to
18 be holding a second public hearing that's going to be -- it
19 is currently scheduled for March 10th of 2020 in order to
20 look at both the testimony that was provided today and
21 update some of the other -- some of the rules.

22 MS. STAVEE: Did you say March 10 of 2020?

23 MR. DYE: I'm sorry.

24 MS. STAVEE: Don't you mean 2022?

25 MR. DYE: That second hearing will be held in a

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1 DeLorean. It's March 10, 2022. And then following that,
2 the -- generally, we're about 14 to 20 days after the final
3 hearing before we're able to move forward to the final
4 adoption process.

5 We will send out more information through our GOV
6 delivery system. If you would like or have any interest in
7 signing up for any of those notifications, you can send us
8 an email to rules@esd.wa.gov, and I can help you get signed
9 up for that.

10 So are there any other comments, questions before we --
11 before I continue on with the official stuff I have to do to
12 end the meeting?

13 MS. KENNEDY: Yeah. I just posted kind of a
14 question, but if this is going to take so long, I mean, this
15 is hitting my credit right now. It's affecting my credit
16 score, and it's affecting me being able to get help or, you
17 know, extensions on credit cards. So what are we supposed
18 to do in the meantime if we don't have money, have to pay
19 this back, and can't access more money to help us survive?
20 I'm not -- I'm getting nothing from anybody right now.

21 MR. DYE: Yeah. That was kind of the two-prong
22 approach with Scott offering -- asking for claim numbers so
23 we can try to do a little bit of triage while we're going
24 through the rulemaking process, which is a little more
25 statutorily defined of how long it's going to take us to do

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1 it. That was the reason we wanted to try to add that, an
2 option to try to get some immediate relief, if it's
3 available for us --

4 MS. KENNEDY: Okay.

5 MR. DYE: -- while we're working on this kind of
6 overarching --

7 MS. KENNEDY: And I don't want to be too pushy,
8 but I'm just, like, hurting over here. So when can we
9 expect a response from you, Scott, then? How long do you
10 think that will take?

11 MR. MICHAEL: I have your claim ID, Nicole.

12 MS. KENNEDY: Yes.

13 MR. MICHAEL: And I will take that over to -- as
14 soon as this hearing is over, I will take that over to some
15 folks who will take an individualized look at your claim,
16 and they will try and reach out to you.

17 MS. KENNEDY: Thank you, sir.

18 MS. STAVEE: Okay.

19 MR. DYE: Unfortunately -- yes, ma'am. Go ahead.

20 MS. STAVEE: This is Janice Stavee. When
21 Mr. Michael needs our claim ID, is that the claimant ID we
22 get in all of our letters?

23 MR. MICHAEL: Yes. It's a six digit alphanumeric,
24 you know, string of letters. So if you're able to put that
25 in the chat in a direct message to Scott Michael, I will add

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1 that to the list of people who have already sent me their
2 stuff, and I will send that over to some folks who will take
3 some individual looks at it.

4 MR. DYE: Janice, this is Josh. Are you available
5 for me to return a call to you at this phone number for this
6 so I can hopefully get that information?

7 MS. STAVEE: Yes, as long as -- thank you, because
8 I'm somewhat a little techo challenged.

9 MR. DYE: That's fine. So let me -- once the
10 meeting is completed, I will give you a call to get that
11 information so I can forward it to Scott.

12 MS. STAVEE: And, Josh, to be able to recognize
13 the phone number, will it come up with your name on it?

14 MR. DYE: It generally comes up with Washington
15 State ESD, I believe, and the last four digits of my phone
16 number. I don't know if it shows up that way, though. I'm
17 not sure.

18 MS. STAVEE: Okay.

19 MR. DYE: When I call you, if I don't get an
20 answer, I'll call you back a couple of times so that you can
21 see that it's not a robocall.

22 MS. STAVEE: Okay, yeah. Thank you so much, Josh.
23 I appreciate that. I appreciate you guys listening to us,
24 you know. My story isn't as bad as some of the others, and
25 I don't owe as much as some of others, but like I say, I'm

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1 on social security. How am I supposed to pay over \$2,000
2 back, you know?

3 MR. DYE: I see a Sara Gardner. Sara, you have
4 your hand up?

5 MS. GARDNER: Yes. I want to say all of those
6 names I stated in my testimony, every single one of them
7 promised that they would mark my case and get back with me.
8 I have heard back from absolutely zero; so can we get a
9 guarantee that if you promise that you're going to do this
10 that you actually do this?

11 MS. STAVEE: Yes, please.

12 MR. MICHAEL: I will do my best.

13 MS. STAVEE: That's --

14 MR. DYE: Yeah. We can guarantee that we will
15 move the claim over to some of the folks that can help.
16 Unfortunately, I don't want to promise something because I
17 don't -- Scott and I will not have our actual -- will not be
18 the ones that are kind of looking into it; so I can't speak
19 for somebody else. What I can promise is that we will make
20 sure it's passed over -- not passed over, it gets passed
21 along to some folks, and we will try to follow up with them.

22 MR. MICHAEL: Unfortunately, neither of us have
23 the power to actually change claims. We're just here for
24 making people -- but we do have the power -- we do know the
25 people who do have the power to talk to you and make any

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1 necessary changes to your claims.

2 MS. GARDNER: Okay. But then it goes back to
3 people who say they're going to do stuff and then -- mine is
4 supposed to have been passed to so many people. I went over
5 11 months not getting a response for secure messages, not
6 being able to get through. I'm dealing with issues --
7 currently, I have two claims. They say I have an
8 overpayment and a credit. How can you have both at the same
9 time? Then I get promised and promised and promised, and
10 then I hear nothing from anyone who directly says that they
11 are going to get back with me.

12 MS. STAVEE: Understood.

13 MR. DYE: Yeah. Sara, I absolutely -- I can
14 empathize with that. I'm going through similar experiences.
15 One thing I can tell you is the rules@esd.wa.gov inbox is
16 something I check regularly. We'll give you -- we'll give
17 you an avenue to follow up with me. I just -- I don't
18 want -- I'm not going to promise you something that I
19 can't -- that's not going to be -- that I'm going to be the
20 one personally doing it because I don't want to add to that,
21 to that list. But what I can assure you is that we'll both
22 get it front of the eyes that can look at it, and I'll
23 follow up to try to see -- to try to get an answer for you.
24 I can't guarantee it's going to be an answer that you'll
25 like. I'll at least try to get an answer.

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1 MS. GARDNER: All right. Thank you.

2 MR. DYE: So AFAND. I'm sorry. I forgot your --

3 MR. ANDRUS: It's Ashby.

4 MR. DYE: Yeah, I'm sorry.

5 MS. ANDRUS: Just a quick comment to add, \$20,000
6 is a lot to ask to repay, especially when I followed all the
7 procedures every time. I'm still a student, and I still
8 look for the work and did the online logs that were
9 required. Every time you guys request a progress report, I
10 go to the college, have the training person sign it, and
11 fill it out. I did all of that, and so I just want that to
12 be known that I followed all procedures. So thank you.

13 MR. DYE: Thank you so much. Is there any other
14 comments or testimony?

15 MS. STAVEE: Yeah. I was wondering is the
16 governor going to get a copy of all this? Is he the powers
17 that be? Should we follow up with him?

18 MR. DYE: That would skip a few steps. So there's
19 two different tracks here. For the actual individual claim
20 follow-ups, it will go direct to customer service, the
21 employment security department's customer service.

22 For the rulemaking aspect of it, all of our rulemaking
23 files are shared on our website, and you can request a copy
24 of them through our rules inbox.

25 And then, Janice, I will actually -- I'll talk to you

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1 more about that when I call to get your claim number.

2 MS. STAVEE: You got it. Thank you. I appreciate
3 you guys. Please get rid -- do the permanent waiver,
4 please.

5 MR. DYE: Yeah. I know it's not necessarily the
6 gratifying answer we can give you. Scott and I, our role is
7 to take and just to draft and create the language, not
8 necessarily to decide what language is going to be included,
9 but we'll definitely take it to the other members of the
10 employment security team so we can try to get some
11 resolutions.

12 MS. STAVEE: Okay, Josh. Thank you so much for
13 talking to me and calling me back.

14 MR. DYE: Yeah, absolutely.

15 So let me move to -- no more comments. Again --

16 MS. SALAS: I have one question. Maybe this is
17 what you will address. What will happen now, like, between
18 now and the next hearing? Will there be any updates, like,
19 where today's testimonies go, and how is this hearing being
20 used, and what will happen now until the second hearing?

21 MR. DYE: So a transcript of the hearing will be
22 added to our rulemaking page. We will also -- I'm in the
23 process of preparing a supplemental proposed rulemaking
24 document which we'll file, and then we'll send out a notice
25 of that. It will have the details for the March hearing and

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1 lay out some of the details of what's being added. There's
2 a couple of the designations that we wanted to add.

3 And then following the March meeting, we will take both
4 the testimony from today and from that meeting, we will
5 respond to it in what's called a concise explanatory
6 statement which kind of gives the department's official
7 response to any questions or concerns that were raised, and
8 then that will also be made to the public.

9 If you send me your information through -- or request
10 through our rules inbox, I can send you a copy of that when
11 it's made available.

12 MS. SALAS: Thank you.

13 MR. DYE: Any other questions or comments?

14 MS. STAVEE: Not at this time, Joshua.

15 MR. DYE: Okay. So this hearing was convened to
16 consider testimony on converting emergency rules adopted
17 during the COVID-19 pandemic to permanent rules.

18 All testimony presented at this hearing and written
19 submission will become part of the official record.

20 **A final decision regarding adoption of the proposed**
21 **rulemaking will be made after all testimony and written**
22 **comments have been considered and following the second**
23 **public hearing currently scheduled for March 10, 2022.**

24 **On behalf of the commissioner, thank you for**
25 **participating in this hearing. This hearing is adjourned at**

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1 9:58 a.m. on January 27, 2022. Thank you everybody.

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(Concluded at 9:58 a.m.)

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C E R T I F I C A T E

1
2 I, REBECCA S. LINDAUER, a Certified Court Reporter in and
3 for the State of Washington, residing at Lacey, do hereby
4 certify:

5 That the foregoing Zoom public hearing was taken before me
6 and completed on the 27th day of January 2022, and thereafter
7 transcribed by me by means of computer-aided transcription; that
8 the public hearing is a full, true, and complete transcript of
9 the proceedings;

10 That I am not a relative, employee, attorney, or counsel of
11 any party to this action or relative or employee of any such
12 attorney or counsel, and I am not financially interested in the
13 said action or the outcome thereof;

14 That I am herewith emailing the public hearing to MR. JOSHUA
15 DYE.

16 IN WITNESS HEREOF, I have hereunto set my hand this 7th day
17 of February 2022.

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25



Rebecca S. Lindauer, CSR#2402
Certified Court Reporter, in and for the
State of Washington, residing at Lacey.

<p style="text-align: center;">\$</p> <hr/> <p>\$1,410 14:22</p> <p>\$109 10:21</p> <p>\$14,038.20 15:4</p> <p>\$188 13:16</p> <p>\$2,000 25:4 30:1</p> <p>\$20,000 18:16 32:5</p> <p>\$235 13:16</p> <p>\$3,000 16:18</p> <p>\$3,500 10:1</p> <p>\$300 25:1</p> <p>\$653 25:2</p> <p>\$7,050 14:12</p> <p>\$7,904 11:20</p> <p>\$751 10:20</p> <p>\$79 9:21</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 3:12 18:22</p> <p>10 24:1 26:22 27:1 34:23</p> <p>1099-D 17:6</p> <p>10th 15:6 26:19</p> <p>11 31:5</p> <p>11th 13:10 16:11</p> <p>13 9:25</p> <p>13th 13:2,22</p> <p>14 27:2</p> <p>15 14:6 24:1</p> <p>15th 13:21</p> <p>16th 13:25</p> <p>1740 22:16,22</p> <p>17th 13:3 14:10</p> <p>18th 13:11</p> <p>1st 14:23</p>	<p style="text-align: center;">2</p> <hr/> <p>2 3:13</p> <p>20 27:2</p> <p>2018 18:11</p> <p>2020 4:19 5:10 6:14 9:15,19 11:17 12:8 13:2,10,13,20 14:8,10 16:11 23:15 26:19,22</p> <p>2021 3:14 10:4,7 11:19 16:14</p> <p>2022 3:2,9 26:24 27:1 34:23 35:1</p> <p>21st 13:13 15:6</p> <p>22 10:4</p> <p>22-01-092 3:18</p> <p>22-01-191 3:17</p> <p>22-01-204 3:17</p> <p>27 3:1,9 35:1</p> <p>29 10:7</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 3:12 6:9 9:9 11:3,15 12:15 16:6 17:13,21 20:11 22:10 23:8 25:25</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 3:12 6:9 9:9 11:3,15 12:14 16:6 17:12,21 20:11 23:7 25:25</p> <p>4320 5:22 26:9</p> <p>4th 13:20</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5061 3:14</p> <p>5th 14:10</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>68-year-old 23:13</p>	<p style="text-align: center;">8</p> <hr/> <p>800 24:4</p> <p>8th 25:21</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 14:8</p> <p>9:02 3:2,8</p> <p>9:36 22:18</p> <p>9:38 22:19</p> <p>9:58 35:1,2</p> <hr/> <p style="text-align: center;">@</p> <hr/> <p>@esd.wa.gov 8:23</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>A-N-D-R-U-S 18:9</p> <p>A-S-H-B-Y 18:9</p> <p>a.m. 3:2,8 22:18,19 35:1,2</p> <p>absolute 6:20</p> <p>absolutely 30:8 31:13 33:14</p> <p>access 5:2 27:19</p> <p>accident 23:22</p> <p>account 10:6 11:23 18:17 24:23 25:6</p> <p>Act 5:11 6:22</p> <p>action 8:1</p> <p>actions 8:14</p> <p>actual 30:17 32:19</p> <p>add 9:8 11:2 12:14 17:12 19:11 22:10 26:13 28:1,25 31:20 32:5 34:2</p> <p>added 7:15 10:21 11:1 20:1 33:22 34:1</p> <p>adding 13:4</p> <p>addition 18:20</p>	<p>additional 10:18</p> <p>address 33:17</p> <p>addressed 3:13</p> <p>adjourned 34:25</p> <p>adopt 4:23</p> <p>adopted 3:10 34:16</p> <p>adoption 4:11 27:4 34:20</p> <p>advised 4:5</p> <p>AFAND 17:23 32:2</p> <p>affected 6:11 16:8 23:10</p> <p>affecting 27:15,16</p> <p>afford 14:23 26:1</p> <p>agency's 4:10,16</p> <p>ahead 12:25 16:1 17:25 19:5 28:19</p> <p>alleviate 12:11</p> <p>alphanumeric 28:23</p> <p>amount 7:4,5,7,10,11 9:17 13:15 15:3,4 24:25</p> <p>amounts 10:1</p> <p>Andrus 17:24 18:1,5,9 32:3,5</p> <p>answers 25:8</p> <p>antidepressants 14:14</p> <p>anxiety 7:15,17 8:7 17:5,10</p> <p>apologize 15:24</p> <p>appeal 7:9 14:21 25:17,19</p> <p>appealed 10:2 16:14</p> <p>appeals 25:14</p> <p>apple 23:2</p> <p>applied 13:3,8 19:13</p> <p>applies 18:21</p> <p>apply 12:2</p> <p>approach 27:22</p>
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