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UNEMPLOYMENT INSURANCE
APPEALS COMMISSION

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
UNEMPLOYMENT INSURANCE APPEALS COMMISSION

In the matter of the claim of:

Christine M. Holifield

Claimant-Appellant

v.

Michigan Unemployment Insurance Agency

Appellee.

Appeal No. 20-024143

Case No. 24375735

ALJ: Lindsay Wilson

**MOTION TO FILE BRIEF *AMICUS CURIAE* ON BEHALF OF THE CENTER FOR
CIVIL JUSTICE IN SUPPORT OF CLAIMANT-APPELLANT**

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The Center for Civil Justice (CCJ) requests permission from the Unemployment Insurance Appeals Commission to submit an amicus brief on its own behalf, pursuant to Michigan Administrative Code, R 792.11423(8). Accordingly, CCJ states the following:

1. Established in 1951, CCJ is a non-profit law firm that advocates for people in Michigan who need help meeting their basic needs. CCJ's mission is to ensure that low-income Michiganders have greater access to basic services, especially those related to income, healthcare, housing, nutrition and other vital human needs.
2. CCJ works to advance racial justice by combating structural and institutional racisms and advocating for access to resource and opportunities in society so that all individuals and communities can live a full and dignified life.
3. To fulfill this mission and commitment, CCJ engages in impact litigation and policy work, as well as administrative advocacy, to achieve systemic improvements in the policies affecting low-income people.
4. Additionally, CCJ provides technical and educational support to other organizations that share CCJ's mission by offering legal opinions and analysis of policies, regulations and legislation that affect individuals and families experiencing poverty.
5. The Unemployment Insurance Appeals Commission has designated the matters in this case as Matters of First Impression.
6. The specific Matter of First Impression is whether a part-time worker is eligible for Pandemic Unemployment Assistance (PUA).
7. This issue directly affects CCJ's clients, many of whom are low-wage, part-time workers. CCJ also has an interest in protecting the rights of Michigan's disabled community.

8. Given CCJ's experience, we are in a unique position to assist this Commission in understanding the legal and policy implications of this decision.
9. CCJ urges the Commission to grant our Motion to File Brief of Amicus Curiae and to answer the question posed in the Matter of First Impression in the affirmative by finding that part-time workers are eligible for PUA.

WHEREFORE, pursuant to Michigan Administrative Code, R 792.11423(8), CCJ moves this honorable Commission to grant its Motion and to accept the proposed amicus brief attached Exhibit A for filing.

Respectfully submitted,

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Dated: April 19, 2021

EXHIBIT A

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QUESTION PRESENTED

Is a part-time worker eligible for Pandemic Unemployment Assistance (PUA) Benefits?

Claimant-Appellant answers: Yes.

Michigan Unemployment Insurance Agency answers: No.

Administrative Law Judge Lindsay Wilson answers: No.

The Center for Civil Justice answers: Yes.

INTERESTS OF AMICUS CURIAE

The Center for Civil Justice (CCJ) respectfully submits this amicus brief pursuant to Michigan Administrative Code, R 792.11423(8), in support of Claimant-Appellant, urging the Unemployment Insurance Appeals Commission to find that part-time workers are eligible for PUA in Michigan and to reverse the ALJ decision.

CCJ is a nonprofit legal organization that advocates for the rights of low-income people in Michigan through impact litigation, public policy initiatives and educational campaigns. Originally established in 1951, CCJ works to ensure that Michigan's low-income population has greater access to basic needs and services, particularly related to food and nutrition, housing, healthcare, and monetary support. We strive to remove the barriers that prevent people from escaping poverty and advocate for programs that stabilize household income so that poverty does not become a permanent state for people experiencing temporary hardship.

The Commission's decision in this matter will directly impact our clients, many of whom are low-wage earners and part-time workers. This population was hit particularly hard by the pandemic and any loss of any income could mean the difference between scraping by and destitution. We urge the Commission to find that part-time workers are eligible for federal PUA

funds, which were designed to protect them from job loss during the pandemic, and reverse the ALJ decision that would drive vulnerable families further into poverty if affirmed.

INTRODUCTION

The undisputed facts in this case are that the Ms. Holifield, the claimant-appellant, is a disabled Michigan resident who receives Social Security Disability Insurance (SSDI). Prior to the March 2020, she worked part-time at an auction house as a 1099 independent contractor. She lost her job, because the auction house shut down their operations due to the pandemic. She subsequently filed a claim for Pandemic Unemployment Assistance (PUA), which the Michigan Unemployment Insurance Agency (UIA) granted on April 21, 2020, establishing a benefit year beginning March 22, 2020.

However, in October 2020, nearly six months later, the UIA issued a redetermination finding Ms. Holifield ineligible for PUA under the Michigan Employment Security Act due to her inability to work full-time. Ms. Holifield timely appealed. On December 8, 2020, Administrative Law Judge (ALJ) Lindsay Wilson denied Ms. Holifield's appeal. ALJ Wilson found that although Ms. Holifield lost her employment due to a COVID-qualifying reason, she was nevertheless ineligible for PUA because of the "ability provision," Section 28(1)(c) of the Michigan Employment Security Act. ALJ Decision, Dec. 8, 2020.¹ In reaching her conclusion, ALJ Wilson found that "[b]ased on [claimant's] receipt of SSDI, the claimant is only able to work part-time." ALJ Decision, Dec. 8, 2020, pg. 4.

For the reasons described in more detail below, ALJ Wilson's decision should be reversed. It was based on an incorrect reconciliation of state and federal law. Further, the

¹ All pleadings in this case are available on the Michigan.gov website: https://www.michigan.gov/leo/0,5863,7-336-94421_96489-556156--,00.html; and thus, are not included as attachments.

decision sets a dangerous precedent because it would deprive vulnerable part-time workers of a life-saving source of income and subject part-time workers who have already received PUA to recoupment by the state.

ARGUMENT

I. Part-time workers in Michigan are eligible for PUA under the CARES Act.

The PUA program is temporary federal disaster relief created by the Coronavirus Aid, Relief and Economic Security (CARES) Act, which was signed into law on March 27, 2020. CARES Act, Pub. L. 116–136. The \$2.2 trillion economic stimulus bill was the largest relief bill passed in United States history.² Importantly, it expanded states’ ability to provide unemployment assistance to those not previously eligible for state unemployment assistance. This allowed part-time workers, independent contractors and other workers in the “gig economy” to qualify for assistance. PUA provides beneficiaries up to 39 weeks of assistance, is 100% federally funded, and provides funds to states to administer the program.³

a. By accepting PUA funds, Michigan agreed to administer the program in accordance with the CARES Act, as interpreted by the Department of Labor, which extends PUA to part-time workers.

Michigan elected to take advantage of the federal PUA dollars by signing an agreement with the U.S. Department of Labor.⁴ By accepting the federal funds, Michigan agreed to

² Cochrane, Emily & Hulse, Carl, *As Coronavirus Spread, Largest Stimulus in History United a Polarized Senate*, NY Times (March 26, 2020), available at: <https://www.nytimes.com/2020/03/26/us/coronavirus-senate-stimulus-package.html>.

³ Unemployment Insurance Program Letter (UIPL) 16-20 (April 5, 2020): https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_acc.pdf.

⁴ The Department of Labor and Economic Opportunity, *Governor Announces to Increase and Expand Unemployment Benefits for Workers Affected by COVID-19; Benefits increased for all unemployed workers, expanded to self-employed and low wage workers*, Press Release (March 30, 2020), available at: https://www.michigan.gov/leo/0,5863,7-336-94422_97241_98585_99416_98657-523450-,00.html#:~:text=The%20governor%2C%20under%20the%20federal,qualify%20for%20state%20unemployment%20benefits.

administer the program as the Department of Labor's agent.⁵ As such, PUA payments "must be made in accordance with the [CARES] Act as interpreted by the Department."⁶

PUA provides benefits to "covered individuals." In interpreting the CARES Act, the Department of Labor defines covered individuals as:

those individuals not eligible for regular unemployment compensation or extended benefits under state or Federal law or pandemic emergency unemployment compensation (PEUC), including those who have exhausted all rights to such benefits. Covered individuals also include self-employed, *those seeking part-time employment*, individuals lacking sufficient work history, and those who otherwise do not qualify for regular unemployment compensation or extended benefits under state or Federal law or PEUC (Emphasis Added).⁷

It is clear that the definition of covered individual as interpreted by the Department of Labor includes individuals who are "seeking part-time employment." Thus, as the Department's agent, the state explicitly agreed to disburse funds to those covered workers, which include Ms. Holifield. As a part-time 1099 worker, she is exactly the type of person Congress and the Department intended to help through PUA.

The UIA attempts to distinguish between individuals who are seeking part-time work but who are able and available for full-time work and those who are not. *See* UIA Written Argument, March 3, 2021 (part 1 of 2). This argument is unpersuasive and is not supported by the text of the CARES Act or Department of Labor guidance. Further, it asks regular people to engage in a legal fiction of UIA's creation by certifying that although they are looking for part-time work, they are able and available to accept full-time work if presented with the opportunity. This does not reflect our current labor market, which includes parents who may not be available for full-time work due to childcare responsibilities; students who are working a part-time job to get

⁵ Unemployment Insurance Program Letter (UIPL) 16-20, Attachment 1 (April 5, 2020): https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Attachment_1.pdf.

⁶ *Supra*, Note 5.

⁷ *Supra*, Note 3.

themselves through school; and individuals who may not have the mental or physical capacity to work full time.

Therefore, as the Department of Labor’s agent, the UIA is obligated to administer the program in accordance with the Department’s interpretation of the CARES Act, which includes those seeking part-time work, such as claimant-appellant.

b. Michigan law creates an inherent ambiguity within the enabling provisions of the federal PUA program.

Title II, Subtitle A of the CARES Act is the “Relief for Workers Affected by Coronavirus Act,” which includes several provisions relating to unemployment. Pub. L. 116–136 § 2101. Section 2102 of the CARES Act establishes PUA and defines who is a “covered individual” for the purposes of PUA. Applicable here, the term “covered individual” is defined as an individual who:

- (i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and
- (ii) provides self-certification that the individual—
 - (I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—[of a COVID-related reason, § 2102(a)(2)(A)(ii)(I)(aa)–(II)]; or
 - (II) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (I);

Pub. L. 116–136 § 2102(a)(2)(A)

Section (i) above demonstrates Congress’s intent to expand state unemployment insurance systems beyond their default restrictions in order to provide more assistance to workers. Section (ii) mandates that individuals provide a self-certification that they are “otherwise able and available to work within the meaning of applicable state law.” Applying Michigan law creates an inherent ambiguity within the enabling provisions of PUA, because Michigan Employment Security Act § 28(a)(1)(c) requires an applicant be able and available to perform full-time work. Thus, reading the CARES Act provision for PUA covered individual and the Michigan Employment Security Act’s standard for “able and available for work” creates a feedback loop and negates the congressional intent to expand states unemployment insurance systems. From the perspective of a part-time worker, they are a “covered individual,” because they are “not eligible for regular compensation or extended benefits under State or Federal law” by virtue of being part-time, but they do not qualify for PUA because they are not “able and available” to work full-time, by virtue of being part-time. This defies common sense and creates an ambiguity within the provisions of the federal law itself.

In other words, the interpretation favored by ALJ Wilson and the UIA would require a different reading of Section (i):

A covered individual is an individual who *is* ~~[not]~~ eligible for regulation compensation. Emphasis added.

Essentially, ALJ Wilson and the UIA’s interpretation would mandate that an applicant be eligible for regular unemployment compensation by being able and available to work full-time in order to be eligible for PUA, which highlights the inherent ambiguity within the CARES Act when read in conjunction with Michigan state law and the conflict between the federal law and the Michigan state law. This interpretation would also produce the absurd result where no part-time worker would be eligible for PUA (providing that they were only able and available for

part-time work), a program meant to provide assistance to part-time workers. This is not what Congress intended.

c. Congress clearly intended to include part-time workers as covered individuals for the purposes of PUA.

When there is ambiguity, we must look to congressional intent. The CARES Act was the subject of prolonged debate in the House and Senate, but ultimately passed the Senate unanimously.⁸ Regarding the unemployment assistance provisions, Democratic Minority Leader, Chuck Schumer, called it “unemployment on steroids,” and republicans’ failure to include an expansion of unemployment insurance benefits in an early draft nearly derailed negotiations.⁹

In passing the CARES Act, Congress recognized that the nation was facing an unprecedented shock to our economy. More than 3 million workers in the U.S. filed for unemployment insurance in a single week in March 2020.¹⁰ In Michigan, the unemployment rate peaked at 22.7%, the highest rate since at least 1976.¹¹ These numbers are jarring, but they actually understated the problem, since many part-time and non-traditional workers were not eligible for any kind of unemployment assistance at the time. Our country was facing a disaster,

⁸ Cochrane, Emily & Hulse, Carl, *As Coronavirus Spread, Largest Stimulus in History United a Polarized Senate*, NY Times (March 26, 2020), available at: <https://www.nytimes.com/2020/03/26/us/coronavirus-senate-stimulus-package.html>.

⁹ *Supra*, Note 8 (Mr. Mnuchin opened the meeting by asserting that ‘essentially, it seems to me that we’ve reached a bipartisan agreement,’ but Ms. Pelosi and Mr. Schumer balked and began outlining a number of issues that needed work in order to gain their support: expansion of unemployment insurance[.]).

¹⁰ Casselman, Ben; Cohen, Patricia; and Hsu, Tiffany, *‘It’s a Wreck.’ 3.3 Million File Unemployment Claims as the Economy Comes Apart*, NY Times (March 26, 2020), available at: <https://www.nytimes.com/2020/03/26/business/economy/coronavirus-unemployment-claims.html>.

¹¹ State of Michigan, Department of Technology, Management and Budget, *Michigan’s unemployment rate increases to historic level in April as result of COVID-19-related layoffs*, Press Release (May 20, 2020): <https://www.michigan.gov/dtmb/0,5552,7-358-82543-529743--,00.html>.

and PUA was the disaster assistance needed to expand state unemployment systems to reach more workers by including “gig workers, independent contracts and the self-employed.”¹²

The expansion of unemployment benefits to part-time workers pursuant to PUA was widely recognized in various news outlets.¹³ For example in November 2020, CNBC reported:

The latest jobless numbers from the Department of Labor indicate that nearly half of all workers receiving unemployment benefits are supported by Pandemic Unemployment Assistance (PUA), which covers individuals not traditionally eligible for aid, including self-employed, freelance, gig and part-time workers.¹⁴

Furthermore, since the CARES Act, Congress has twice approved extensions to the PUA program, indicating their intent to continue the temporary disaster unemployment assistance for those ineligible for regular unemployment compensation, such as part-time workers.¹⁵ If Congress wanted to exclude part-time workers from PUA, they had ample opportunity to do so. They did not.

d. To the extent that state and federal law conflict, federal law reigns supreme.

¹² *Supra*, Note 10.

¹³ Berger, Rob, *Millions May Be Owed Retroactive Unemployment Benefits*, Forbes, Dec. 1, 2020, available at: <https://www.forbes.com/sites/robertberger/2020/12/01/millions-may-be-owed-retroactive-unemployment-benefits/?sh=47bdda687434> (“[PUA benefits] covered those seeking part-time employment . . .”); Morad, Renee, *How College Students Can Get Nearly \$800 a Week in Pandemic Unemployment Assistance, Backdated from April 20 through July 2020*, Forbes, July 10, 2020, available at: <https://www.forbes.com/sites/reneemorad/2020/07/10/how-college-students-can-get-nearly-800-a-week-in-pandemic-unemployment-assistance-backdated-from-april-2020-through-july-2020/?sh=35eceebe695a> (“[The DOL] confirmed that the program does not restrict eligibility for full-time students working part-time.”); Thompson, Carol, *The latest on unemployment benefits: What jobless Michiganders need to know*, Lansing State Journal, Jan. 5, 2021, available at <https://www.lansingstatejournal.com/story/news/2021/01/06/latest-unemployment-michigan-residents-2021/4127882001/> (“[The CARES Act] allowed states to expand unemployment benefits to part-time and gig workers[.]”).

¹⁴ Liu, Jennifer, *Nearly half of people collecting unemployment benefits may not qualify for aid in 2021*, CNBC (Sept. 3, 2020), available at: <https://www.cnbc.com/2020/09/03/nearly-half-of-workers-on-unemployment-could-lose-benefits-end-of-year.html>.

¹⁵ Vasquez, Rachael, *DWD: Federal PUA Benefits Approved in December, March Set to Launch Tuesday*, Wisconsin Public Radio (March 30, 2021) available at: <https://www.wpr.org/dwd-federal-pua-benefits-approved-december-march-set-launch-tuesday>.

As described above, the Michigan Employment Security Act conflicts with the PUA provisions in the CARES Act, and therefore, the requirement that a claimant be able and available to work full-time is without effect. The United States Constitution provides that federal law “shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.” U.S. CONST. art. VI, cl. 2. In situations where state laws conflict with federal laws, the conflicting provisions are “without effect.” *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76, 129 S. Ct. 538, 172 L. Ed. 2d 398 (2008) (quoting *Maryland v. Louisiana*, 451 U.S. 725, 746, 101 S. Ct. 2114, 68 L. Ed. 2d 576 (1981)). In the case at hand, the Michigan definition of “available for work” conflicts § 2102(a)(2)(A)(i) of the CARES Act, which extends unemployment benefits to workers who are not eligible for regular unemployment assistance.

The plain language of the statute expresses Congress’ intent to preempt state unemployment law in order to expand unemployment benefits to the people who were previously left out of the state unemployment system. In this way, they were explicitly preempting the state requirements for a set of more expansive federal requirements. “Congress may indicate pre-emptive intent through a statute’s express language or through its structure and purpose.” *Id.* Here, Congress defined a covered individual for the purposes of PUA as someone who, “is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107.” The state’s interpretation of the following section as requiring an applicant to be able and available for full-time work results in a direct conflict with this provision.

Thus, as claimant suggests, the only coherent reading is that the CARES Act intended that state eligibility rules be inapplicable to the extent the conflict with federal statutory text and purpose of the PUA provisions. Claimant's Written Argument, March 1, 2021.

II. Denying PUA to part-time workers is not only contrary to congressional intent and the spirit of the CARES Act, but also to public policy.

The CARES Act provided some vital relief for millions of American residents who were suffering due to the COVID-19 pandemic. The much-needed relief recognized that too many Americans are living paycheck to paycheck and the loss of a single paycheck could throw their family into dire straits. As a society, we came together to avoid rampant destitution for low-income, low-wage workers who lack job security and whose regular income sources were disrupted by the pandemic.

Unemployment insurance, like other safety net programs, is a critical part of our state's safety net, which protects workers who have lost their employment through no fault of their own by temporarily replacing a portion of their wages. The Michigan Legislature recognized the critical role unemployment insurance places when enacting the Michigan Economic Security Act:

Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is a subject of general interest and concern which requires action by the legislature to prevent its spread and to lighten its burden which so often falls with crushing force upon the unemployed worker and his or her family, to the detriment of the welfare of the people of this state. MCL § 421.2(1).

Additionally, the Michigan Supreme Court ruled that the Michigan Employment Security Act should be "liberally construed for the benefit of those involuntarily unemployed." *Noblit v. Marmon Group-Midwest Foundry Div*, 386 Mich 652, 654 (1972).

Unfortunately, Michigan's unemployment insurance program leaves many workers out, including part-time workers and independent contractors. The CARES Act sought to change that temporarily for the duration of the public health emergency. Congress recognized that they must take action to assist workers who would fall through the cracks of states' weak unemployment systems, because like full-time workers, they lost their employment through no fault of their own. For many, showing up to work during a government-mandated shut-down was not just unfeasible, it would have been illegal.

The State of Michigan elected to receive PUA funds and encouraged part-time and other non-traditional workers to apply. UIA published a PUA fact sheet, dated April 2020, which provided a description of PUA and stated, "Under PUA, individuals who are self-employed, independent contractors, nonprofit employees, gig economy workers, clergy, those working for religious organizations not covered by regular unemployment compensation, and part-time workers may qualify for unemployment benefits."¹⁶ The Fact Sheet makes no reference of the requirement to be able and available to work full-time.¹⁷ In fact, the section "Who is not eligible for PUA?" states that PUA does not include workers who are teleworking with pay or who are on paid sick leave; there is no mention of part-time workers *not* being eligible for the assistance.¹⁸

The State disbursed PUA funds to people like claimant-appellant who is a part-time worker due to her disability. Now, they've changed course and are demanding that claimant-appellant and other people in her situation pay back the money. The narrow and erroneous

¹⁶ Unemployment Insurance Agency, Fact Sheet 172 (April 2020): https://www.michigan.gov/documents/leo/Fact_Sheet_172_-_Pandemic_Unemployment_Assistance_4-2020-sec_686888_7.pdf

¹⁷ *Supra*, Note 16.

¹⁸ *Supra*, Note 16.

interpretation favored by the ALJ and the UIA would drive many vulnerable workers into destitution and leave federal aid on the table. In claimant-appellant's case, she would be forced to return over \$10,000 in disaster assistance. Claimant's Written Argument, March 1, 2021, pg. 2. For claimant and those similarly situation, this liability would likely bankrupt them and drive them deeper into poverty.

Additionally, other states have fully implemented PUA to include part-time workers, so if the ALJ decision is affirmed, claimant-appellant and those like her, would be denied PUA solely because of they have the misfortune of calling Michigan home. This would be detrimental to low-wage workers and to the Michigan economy at large.

Even before the pandemic, part-time and low-wage workers were particularly vulnerable. Many employed Michiganders still struggle to make ends meet. ALICE (Asset Limited, Income Constrained, Employed) refers to households that have incomes above the federal poverty level, but still struggle to afford basic necessities.¹⁹ This population is also referred to as the "working poor." Despite the economic recovery in Michigan, the number of ALICE households actually increased 6% from 2010 to 2017, largely due to persistent low wages, reduced work hours, depleted savings and increased costs.²⁰ Many in this population do not have a stable job that pays a living wage. In fact, 61% of jobs in Michigan pay less than \$20 per hour and nearly two-thirds of those jobs pay less than \$15 per hour.²¹ A job that pays \$15 per hour grosses \$30,000 per year, which is less than half of what a family of four needs to meet their daily needs.²²

¹⁹ Michigan Association of United Ways, *Alice in Michigan: A Financial Hardship Study* <https://static1.squarespace.com/static/52fbd39ce4b060243dd722d8/t/5c902a7e971a186c0a29dff2/1552951937149/HR19ALICE_Report_MI_Refresh_02.26.19b_Final_Hires+%283%29.pdf>

²⁰ *Supra*, Note 19.

²¹ *Supra*, Note 19.

²² *Supra*, Note 19.

People living in poverty and ALICE households are hit especially hard by an unforeseen loss of income because they lack assets and often have high amounts of debt. In Michigan, 49% of families do not have enough money to cover expenses for three months in the event of a medical emergency or loss of a job.²³ Without adequate assets and savings, families lack financial resilience and are often unable to bounce back after unexpected expenses or loss of income. Therefore, any deprivation of income—even if temporary—can have devastating effects.

Facing an unexpected loss of income, many people are forced to forego critical necessities, such as food, heat and medical care. Indeed, we saw hunger skyrocket as a result of the pandemic. According to Feeding America, 45 million people, including 15 million children, were food insecure in 2020, compared with 35 million people, including 11 million children, before the pandemic.²⁴ In Michigan, 1 in 7 people, including 1 in 7 children struggled with hunger in 2020.²⁵ The struggle to make ends meet persists. As of March 2021, over 1.3 million Michigan residents were receiving food assistance through the Food Assistance Program (FAP)—that’s over 10% the population.²⁶

Finally, denying PUA to part-time workers, will have a disproportionate impact on women and workers of color. Many parents were pushed out of the labor market or became only available for part-time work to due to school closures and lack of options for affordable childcare. Experts have been sounding the alarm, because women have been bearing the brunt of

²³ *Supra* Note 19.

²⁴ Feeding America Report: The Impact of Coronavirus on Local Food Insecurity (March 2021): https://www.feedingamerica.org/sites/default/files/2021-03/Local%20Projections%20Brief_3.31.2021.pdf.

²⁵ Feeding America: What Hunger Looks Like in Michigan. <https://www.feedingamerica.org/hunger-in-america/michigan> (last visited, April 19, 2021).

²⁶ MDHHS, Green Book Report of Key Program Statistics (March 2021): https://www.michigan.gov/documents/mdhhs/2021_03_GreenBook_722240_7.pdf.

the burden. The NY Times reported that the pandemic will likely set gender equality in the workforce back 10 years.²⁷ Women who take a short-term reduction in hours will face long-term consequences in terms of a reduction in retirement savings and reducing future earnings.²⁸

People of color will be hurt disproportionately by the state's policy of denying PUA to part-time workers. The coronavirus pandemic exposed the deadly impact of racial disparities across the country. In the initial months of the pandemic in Michigan, Black Michiganders represented a staggering 40% of the COVID-related deaths while only representing 13% of the state's population.²⁹

PUA provides assistance to groups who have been disproportionately affected by the economic shutdown, including Black workers, who "are overrepresented in self-employed, contract or part-time roles and are more likely to experience longer stints of joblessness."³⁰ For example, in Detroit, a city that's 80% Black, the unemployment rate peaked at 48% in April 2020—over twice the unemployment rate of Michigan as a whole.³¹ Jeffrey Morenoff, professor of sociology and director of the Population Studies Center at U-M's Institute for Social Research, explained: "We found that job losses were especially prevalent among people who were earning less income before the pandemic, people with less education and people of color . . . Even among Detroiters who are still working, 27% said their hours have been reduced

²⁷ Taub, Amanda, *Pandemic Will 'Take Our Women 10 Years Back' in the Workplace*, NY Times (Sept. 26, 2020), available at: <https://www.nytimes.com/2020/09/26/world/covid-women-childcare-equality.html>.

²⁸ Cohen, Patricia, *Recession with a Difference: Women Face Special Burden*, NY Times (Nov. 17, 2020), available at: <https://www.nytimes.com/2020/11/17/business/economy/women-jobs-economy-recession.html>.

²⁹ The Office of Governor Gretchen Whitmer, Executive Order 2020-55 (COVID-19), establishing MI Coronavirus Task Force on Racial Disparities, https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-526476--,00.html.

³⁰ *Supra*, Note 14.

³¹ Slagter, Lauren, *More than 4 in 10 Detroiters have lost jobs during the pandemic*, University of Michigan News (May 26, 2020), available at: <https://news.umich.edu/more-than-4-in-10-detroiters-have-lost-jobs-during-pandemic>.

since the pandemic. This loss of income takes a significant toll on people's long-term financial security."³²

CONCLUSION

For the reasons described above, CCJ urges the Commission to find that part-time workers are eligible for PUA, a program designed by Congress to assist them, and to reverse the ALJ decision finding claimant-appellant ineligible for PUA.

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Dated: April 19, 2021

³² *Supra*, Note 31.

PROOF OF SERVICE

I, Linda Jordan, hereby certify that I served a copy of the foregoing document on all interested parties in this case, including:

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