



March 25, 2020

Governor Lawrence J. Hogan, Jr.  
100 State Circle  
Annapolis, MD 21401-1925

Governor Hogan:

Thank you for the actions you have taken to date in response to this unprecedented catastrophic health crisis, the various loan and grant funds you have established to keep funds flowing to businesses, so they may remain viable and able to pay their employees, and for your Executive Order to stop utility cut-offs and some evictions for tenants impacted by COVID-19. We write now to recommend additional actions to provide the immediate and direct financial relief that Maryland's workers, tenants, and persons who are homeless so desperately need in this crisis. As a civil legal aid organization, the Public Justice Center sees first-hand the impact COVID-19 is having on low-income Marylanders who struggle to keep food on the table and a roof over their heads even in "good times." We trust that you understand that Maryland's workers are the backbone of its businesses; they are the lifeblood of the businesses that fuel our economy. Equally important is avoiding a public health crisis in our homeless shelters and maintaining housing stability for the hundreds of thousands of Maryland residents who will be facing eviction and possible homelessness if further action is not taken.

We therefore ask that you implement emergency measures to complement the resources now available to businesses. Below are several measures you can take to ensure that Maryland's workers, tenants and persons who are homeless can weather this crisis and, simultaneously, alleviate or forestall a severe economic downturn. We would be happy to serve as a resource to you to better ensure that the needs of Maryland's residents are incorporated into your plans for responding to COVID-19.

**1. Unemployment Insurance (UI) Reform/Expansion or Emergency Income Fund.** We are pleased that you approved HB 1663, which allows employees to receive UI under certain COVID-19 related circumstances. However, more must be done to ensure that the newly eligible know of and apply for UI, as well as to expand it. Too many vulnerable workers remain ineligible for UI, including many low-income "gig" workers and independent contractors who are hard hit and losing income. For example, New Hampshire Governor Sununu recently issued an Executive Order providing that "self-employed individuals and those individuals providing services currently excluded from the definition of 'employment'" in the state's unemployment law "shall be considered eligible for unemployment compensation

*John Nethercut  
Executive Director*

*Debra Gardner  
Legal Director*

*ATTORNEYS  
Ashley Black  
Monisha Cherayil  
Sally Dworak-Fisher  
Matthew Hill  
Charisse Lue  
John Pollock  
Renuka Rege  
Russell R. Reno, Jr.  
Dena Robinson  
Tyra Robinson  
David Rodwin  
Zafar S. Shah*

*In Memoriam:  
Camilla Roberson  
2010-2017*

*PARALEGALS  
Levern Blackmon  
Certified Paralegal*

*Carolina Paul  
Becky Sigman  
Kelly Webber  
Lena Yeakey*

*Brenda Midkiff  
Director of Administration*

*Kathleen Elliott, CFRE  
Director of Development*

*Erin Brock  
Development Manager*

*Rebecca Reynolds  
Development Associate*

benefits” if the individual is caring for a child during this period of school closure.<sup>1</sup> Maryland should follow a similar model to expand UI coverage to these and similar workers.

Maryland should also follow the lead of New Jersey, which recently enacted a “**Temporary Lost Wage Unemployment Program**” to allow workers who are not covered by UI to claim for lost wages due to coronavirus disease 2019. This program establishes a \$10,000,000 fund to fully compensate workers at their average weekly rate from the past calendar year for COVID-19 related absences including: 1) care for a family member; 2) care for oneself; or 3) due to the closure of school or a childcare facility. The program also establishes a fund to reimburse employers who pay wages to those quarantined. At a minimum, Maryland should establish some form of **emergency worker income fund** to provide income for those who do not qualify for other forms of assistance; such a fund is a necessary complement to the various funding available to businesses

Additionally, to minimize layoffs and better ensure that businesses and workers are ready to return to a regular work schedule when the economy improves, the “Layoff Aversion Fund” you established should *require* that all applicants demonstrate they are taking advantage of the **Unemployment Insurance Work Sharing Program**. Work sharing has been shown to reduce the number of layoffs and mitigate unemployment during recessions and should be required to the extent possible. See Katherine G. Abraham and Susan N. Houseman, “Proposal 12: Encouraging Work Sharing to Reduce Unemployment” (The Hamilton Project), [https://www.hamiltonproject.org/assets/legacy/files/downloads\\_and\\_links/work\\_sharing\\_a\\_braham\\_houseman.pdf](https://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/work_sharing_a_braham_houseman.pdf).

Finally, to ensure that possible claimants are aware of the expanded eligibility, we suggest **changes to the FAQs and information on the Department of Labor’s website**. Specifically, changes to the work search requirements should be better highlighted and the usual work search requirements temporarily removed; currently, information under “IMPORTANT INFORMATION” continues to suggest claimants must be able and available to work, and individuals have to click a small link above to access the updated information on the waiver of such requirements. Likewise, the general FAQs with pre-COVID-19 requirements remain prominent on the website, suggesting business as usual. Information on COVID-19 should be more prominent and easier for workers to find. Further, the COVID-19-related FAQs do not mention the work search waiver that has taken effect, and state that the Division will consider work search on a case by case basis.

**2. Pandemic Paid Leave Expansion.** COVID-19 has laid bare the holes in our social safety nets, and chief among them is the lack of access to paid leave. The Department of Labor is appropriately encouraging workers to find out if they are eligible for paid sick leave under Maryland’s Healthy Working Families Act (HWFA). However, the website link inappropriately takes the reader to The Office of Small Business Regulatory Affairs, which

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<sup>1</sup> The Executive Order is available at <https://www.governor.nh.gov/news-media/emergency-orders/documents/emergency-order-5.pdf>.

“helps Maryland business owners find timely and effective solutions to issues, so they can go about running their companies,” and does not inform readers of the HWFA. Moreover, the HWFA is no match for COVID-19 because:

- ✓ It does not require businesses to allow employees to take leave in response to a public health emergency, such as where schools or businesses are closed;
- ✓ It exempts temporary staff workers and those who work for an employment agency to provide services to another person, as well as agricultural workers and independent contractors;
- ✓ It **only** requires businesses to permit employees to earn **up to five paid days a year or use eight paid days** in a full year;
- ✓ Businesses may require up to 106 days of employment prior to allowing use of leave, and employees may need to work 30 hours for every 1 hour of leave;
- ✓ Businesses with fewer than 15 workers are only required to permit unpaid leave, which obviously does not provide income to affected workers; and
- ✓ Businesses may require verification that sick leave was appropriately used after *just 2 consecutive missed shifts*, or one day if an employee is scheduled for a double shift. These verification requirements are contrary to public health advice suggesting that people should not go to the doctor at the first sign of illness.

Accordingly, we request you use all executive powers at your disposal to **immediately expand access to paid leave**. The Department of Labor should ensure that businesses and workers know and abide by the new paid leave requirements of the federal Families First Coronavirus Response Act (FFCRA). Additionally, Maryland should fill in the gaps that remain between the federal and state law. Specifically, Maryland should ensure that businesses with 500 or more employees also comply with the FFCRA and immediately allow **80 hours of paid leave for COVID-19 related reasons in addition to any other leave available**. Additionally, Maryland should ensure that no worker is exempt from access to sick leave, that waiting periods and verification requirements are waived, that workers can access such leave in the event of public-health related school or business closures, and that workers can first use any FFCRA leave before exhausting all sick leave under the HWFA.

Although various business and grant funding is already available, to the extent it remains necessary to mitigate economic hardship on businesses in order to ensure that workers have income, we suggest another small business grant program to allowing businesses registered and in good standing with SDAT to apply for a grant upon demonstration of hardship caused by the payout of any Pandemic Paid Leave.

**3. Rapidly House Homeless Persons In Hotels and Permanent Housing.** People experiencing homelessness are often in close proximity to other people in shelters and encampments, have less access to resources to maintain good hygiene, and have a higher rate of chronic illness that puts them at heightened risk of contracting, spreading, and having more severe symptoms of COVID-19. Our neighbors experiencing homelessness must have the same opportunities as others to limit their exposure and maintain stringent hygiene practices, both for the well-being of every member of our community and to prevent the

spread of a much greater public health crisis. Most shelters are crowded, closed-in settings with little air circulation. High-touch surfaces also are prominent. After exposure, symptoms of the virus can take anywhere from two to 14 days to become apparent.

At present, there are very few public health measures deployed to address this looming exacerbation of the COVID crisis that will spread far beyond homeless shelters. Current guidance from HUD directs that residents should “sleep head to toe.” The only certain way to avoid this pending disaster is to make emergency funding available to house all shelter residents in hotels and/or permanent housing.

**4. Prevent Evictions.** Preventing evictions that will likely result in homelessness should also be a major priority for the City in this emergency. While evictions and foreclosures are postponed at the moment, we anticipate an onslaught of new cases as soon as the Court of Appeals lifts the postponement. Evictions are not just a symptom of poverty but a cause of poverty – leaving families vulnerable to losing employment as well as poor health and education outcomes. Maryland’s social safety net cannot currently handle the imminent influx of working-class tenants and homeowners facing foreclosure and eviction. To that end, please consider immediate actions to expand eviction prevention assistance including:

- ✓ Add significant new funding for emergency rental assistance to pay off back-due rent and prevent eviction or to allow tenants to move to more sustainable housing
- ✓ Increase funding for legal representation for tenants in eviction cases to know and enforce their rights.
- ✓ Extend the March 16 Executive Order providing tenants defense to some evictions based on COVID-19 for at least 6 months after the public health crisis has ended, and expand that EO to cover all residential eviction actions and foreclosures.
- ✓ Explore implementing an Executive Order that would freeze or suspend rent and mortgage obligations during the public health emergency.

Please let us know how we might assist and serve as a resource to your office as we strive to “flatten the curve” and minimize the hardships Maryland’s workers will need to endure during this period. Our contact information is below.

Thank you for your leadership during this unprecedented public health and economic crisis.

Sincerely,



Sally Dworak-Fisher (workers)  
dworak-fishers@publicjustice.org  
410-625-9409 ext. 273

Zafar Shah (housing)  
shahz@publicjustice.org  
410-625-9409 ext. 237

