



June 29, 2020

Senator Edward Markey
255 Dirksen Senate Office Building
Washington, DC 20510

Senator Elizabeth Warren
309 Hart Senate Office Building
Washington, DC 20510

Subject: Unemployment Relief for Self-Insured Nonprofit Organizations

Dear Senator Markey and Senator Warren,

First and foremost, we commend you on your efforts to secure relief and resources for the Commonwealth, and for your support of the nonprofit sector in response to the COVID-19 pandemic. We write to request your support of **S. 4001, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act**, and ask that you include additional federal relief for unemployment insurance assistance in any forthcoming relief package.

We are a coalition of associations that support nonprofits and the vital role they play in our communities. As you know, nonprofits are on the front lines responding to the pandemic: treating those who are ill, providing food and shelter, caring for young children, the elderly, those with disabilities, and more. In addition to their role as service providers, nonprofits are an economic engine. With over 550,000 jobs, the nonprofit sector employs 18% of the Commonwealth's workforce. As employers, they are dealing with very difficult staffing decisions while trying to maintain the critical services that will help our communities recover.

The economic shutdown has led to job loss for 40 million Americans and has presented a significant challenge for employers—nonprofits, local governments, and federally recognized tribes—that self-insure for unemployment insurance. Self-insured employers are those that have elected to pay the state after benefits are paid rather than contribute through quarterly taxes. This option works well under normal circumstances. Nonprofits make an actuarial decision to self-insure based on the size and stability of their workforce and regular fluctuation of economic conditions. But this crisis is unprecedented, and nonprofits are facing unimaginable financial burdens due to the layoff rate. Below are examples of fiscal impacts from across the sector. These examples include unemployment payments from specific organizations owed in April 2020 compared to April 2019 and demonstrate the dramatic increase caused by COVID-19.

- **Community health centers:** According to the Mass League of Community Health Centers, 21 of their 51 community health centers are self-insured. Based on current

staffing estimates, the fiscal impact to the health centers would be \$30M over the course of the allowable benefit period.

- **Human service providers:** The community-based human services sector cares for one-in-ten state residents and provides more than 180,000 jobs. According to a recent survey conducted by the Providers' Council, 70% of human service providers reported that they are self-insured.
 - Example: a community-based human services provider in eastern Massachusetts
 - April 2019 - \$4,864
 - April 2020 - \$111,087 (2,100% increase)
- **Youth & education organizations:**
 - **Boys & Girls Clubs:** The Boys & Girls Clubs serve over 175,000 kids each year in Massachusetts. Over half of the Clubs (21 of 40) are self-insured and estimate millions of dollars of impact across these organizations.
 - Example: A Boys & Girls Club in western Massachusetts
 - April 2019- \$0
 - April 2020- \$13,850
 - **YMCAs:** YMCAs employ 22,000 people in Massachusetts. According to the Alliance of Massachusetts YMCAs, 27 of their 28 Y's are self-insured. Based on current estimates, the fiscal impact to these organizations would be \$36M.
 - Example: Old Colony YMCA in southeastern MA
 - April 2019 - \$8,454
 - April 2020 - \$322,000 (3,700% increase)

As currently written, Section 2103 of the CARES Act provides that the federal government will cover 50 percent of the COVID-19 related unemployment claims owed by self-insured employers. As currently interpreted by the U.S. Department of Labor, that provision of the CARES Act requires the employer to pay 100 percent of the claims up front, and then get partially reimbursed at a later date. This guidance was formalized in an April 27 letter ([No. 18-20](#)) to state workforce agencies. Paying for 50% of COVID-19 related claims while revenues are in decline presents a serious threat to nonprofit operations and services. Having to account for 100% and await a subsequent 50% reimbursement is simply not feasible under current cash flow projections. In addition, it presents an unnecessary administrative burden for state workforce agencies and will detract from other critical duties.

Nonprofit organizations are providing direct services in response to the COVID-19 pandemic and need additional relief from the significant financial burden caused by unemployment claims in order to provide some continuity of service. We ask that you please consider the following two remedies in the next federal relief vehicle:

1. **Increase the federal UI relief for self-insured nonprofits from 50 percent to 100 percent of costs.** This will enable nonprofits to dedicate their resources to their charitable missions and resolve the administrative challenges created by the partial reimbursement. Attached please find legislative language that would affect this change.
2. **Ensure that the currently allocated relief for self-insured employers be used to reduce the amounts owed to the state trust,** instead of charging in full and partially reimbursing nonprofits. Please co-sponsor and support the **Protecting Nonprofits from Catastrophic Cash Flow Strain Act (S. 4001)**, or include section 50005 from the House-passed HEROES Act in the next federal relief legislation. The language in both of these vehicles ensures that nonprofits and other self-insured employers do not have to pay 100 percent of their unemployment bill up front and wait for reimbursement from the state.

Thank you for your consideration of these important matters, and for your ongoing support of the nonprofit sector. If additional information is helpful, please don't hesitate to contact MNN's Director of Government Affairs, Danielle Fleury, at 617-971-9175 or dfleury@massnonprofitnet.org.

Signing Organizations

Alliance of Massachusetts YMCAs
Big Brothers Big Sisters of Eastern Massachusetts
The Boston Foundation
Children's League of Massachusetts
Massachusetts Alliance of Boys & Girls Clubs
MassCreative
Massachusetts League of Community Health Centers
Massachusetts Nonprofit Network
Nonprofit Finance Fund
Providers' Council
Strategies for Children
United Way of Massachusetts Bay and Merrimack Valley

Revised CARES Act language to provide 100% forgiveness of COVID-19 related UI payments

SEC. 2103. EMERGENCY UNEMPLOYMENT RELIEF FOR GOVERNMENTAL ENTITIES AND NONPROFIT ORGANIZATIONS.

(a) FLEXIBILITY IN PAYING REIMBURSEMENT.—The Secretary of Labor may issue clarifying guidance to allow States to interpret their State unemployment compensation laws in a manner that would provide maximum flexibility to reimbursing employers as it relates to timely payment and assessment of penalties and interest pursuant to such State laws.

(b) FEDERAL FUNDING.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

“Transfers for Federal Reimbursement of State Unemployment Funds “

(i)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the transfer of funds during the applicable period to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with the succeeding provisions of this subsection.

(B) The amount of funds transferred to the account of a State under subparagraph (A) during the applicable period shall, as determined by the Secretary of Labor, be equal to the amounts of compensation (as defined in section 3306(h) of the Internal Revenue Code of 1986) attributable under the State law to service to which section 3309(a)(1) of such Code applies that were paid by the State for weeks of unemployment beginning and ending during such period plus amounts added to such payments in payment of Federal Pandemic Unemployment Compensation. Such transfers shall be made at such times as the Secretary of Labor considers appropriate.

(C) Notwithstanding any other law, funds transferred to the account of a State under subparagraph (A) shall be used exclusively to credit the accounts of governmental entities and other organizations described in section 3309(a)(2) of such Code for amounts due to be paid (in lieu of contributions) into the State unemployment fund pursuant to such section and for amounts of charges for payments of Federal Pandemic Unemployment Compensation, if any, charged to the accounts of such governmental entities and other organizations described in section 3309(a)(2) of such Code.

(D) For purposes of this paragraph, the term ‘applicable period’ means the period beginning on March 13, 2020, and ending on December 31, 2020.

(2)(A) Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated) to the Federal unemployment account such

sums as the Secretary of Labor estimates to be necessary for purposes of making the transfers described in paragraph (1).

(B) There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in subparagraph (A) and such sums shall not be required to be repaid.