

## PUBLIC INTEREST

# The Recession Isn't Over for the Unemployed

BY MICHAEL HOLLANDER  
AND REBECCA VALLAS

*Special to the Legal*

Laterally, everywhere we turn it seems there are reports of the improving economic outlook. Unemployment dropped in December from 9.8 percent to 9.4 percent while more than 100,000 jobs were created; the stock market is back to levels not seen since before the crash; and the manufacturing sector grew for the 17th month in a row.

Nevertheless, many Americans still face incredible hardship. For the 20th consecutive month, the unemployment rate has been over 9 percent — making this the longest period of sustained high unemployment since the government began keeping track. As of December, nearly 15 million Americans remain unemployed, and millions more are either underemployed or have given up looking for work. What's more, nearly half of the unemployed have been out of work for longer than six months.

## THE PLIGHT OF THE LONG-TERM UNEMPLOYED

Unemployment insurance, which pays a little less than half of a worker's previous wages, usually is capped at 26 weeks in Pennsylvania. As the recession has slogged on, this has been extended to 99 weeks in most states, including here. Thanks to legislation signed by President Obama in December, these extended unemployment benefits will remain available for another year.

Sadly, with an estimated five jobseekers

for every available position, even 99 weeks is not long enough for many of the unemployed to find jobs. A staggering 600,000 people in Pennsylvania have been unemployed for more than 99 weeks, and have run out of their unemployment insurance. More than four million unemployed workers nationwide face the same hardship.

Take the case of a graphic designer who contacted Community Legal Services. She has a bachelor's degree and more than 15 years' experience in that area, and has been unemployed since November 2008. Since losing her last full-time job more than two years ago, she has all but given up hope of finding another job in her field, leading her to apply for countless minimum wage jobs in the retail and food service sectors. Yet she has not found luck there either, instead hearing a now-familiar refrain: that she is overqualified and "will only leave when the economy gets better." Her 99 weeks of unemployment benefits ran out in December.

Another person who contacted CLS finds himself in similarly dire straits. He has spent his working years as a mailroom and shipping clerk, but was laid off nearly three years ago at the outset of the downturn. He exhausted his unemployment benefits in May of last year. Despite his willingness to take "any job I can get," he has been unable to find work. At 59 years old and without any job prospects, he describes his inability to find work as making him "feel like I'm losing my identity."

## ADVOCACY ON BEHALF OF THE LONG-TERM UNEMPLOYED

Community Legal Services has been

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working to find solutions for the long-term unemployed since the recession hit. Together with Philadelphia Legal Assistance (PLA), CLS represents thousands of people in individual cases to help them get and keep critically needed public benefits ranging from unemployment compensation to Food Stamps to medical assistance. CLS and PLA also represent individuals facing utility shutoffs; in bankruptcy proceedings; and in a variety of consumer law cases, such as debt collection actions; as well as those facing loss of housing, whether by eviction or foreclosure, due to lost income.

Systemic advocacy such as that described below has also been key in bringing about programs and policies to help the unemployed.

## PA PROGRAM PUT MORE THAN 20,000 BACK TO WORK

Way to Work Pennsylvania was a highly successful subsidized employment program operated jointly by the Department of Public Welfare and the Department of Labor and Industry, in cooperation with the county Workforce Investment Boards. It funded

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## Initiative to Help Homeless Veterans Celebrates 10th Year

BY MARSHA COHEN

*Special to the Legal*

Since the fall of 2001, the Homeless Advocacy Project has dedicated itself to serving the unique legal needs of Philadelphia's homeless veterans population, especially those suffering from post-traumatic stress disorder.

In doing so, HAP has held a bimonthly legal clinic for Philadelphia's homeless veterans at the Perimeter, a daytime drop-in center for homeless veterans operated by the Philadelphia Veterans Multi-Service and Education Center. To date, HAP has helped 982 homeless veterans with their legal needs.

Since 2006, the clinics have been staffed by volunteers from Saul Ewing under the leadership of HAP board member Caitlin Piccarello. As the project celebrates 10 years of success, HAP is now poised to expand the depth and reach of its Veterans Project by offering services to veterans at new locations in Philadelphia and Camden.

Instrumental in the success of HAP's Veterans Project is HAP's staff attorney, Michael Taub, who marks seven years at HAP this year. In addition to staffing the clinics and representing his many clients, Taub continues to conduct frequent accredited veterans law trainings for attorneys around the country. The success of

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## Public

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private- and public-sector jobs for unemployed parents and youths, using federal stimulus dollars from the TANF Emergency Fund. Way to Work lasted from May to Sept. 30, 2010, when the federal funds expired, funding nearly 22,000 jobs at more than 4,800 employers around the commonwealth.

As the jobless recovery drags on, subsidized jobs programs serve as the last hope for many people exhausting their unemployment benefits. They enable people to earn wages, remain connected to the workforce, and continue to build on their skills — while simultaneously providing a boost to struggling businesses.

CLS, along with the Philadelphia Unemployment Project (PUP), was instrumental in bringing about Way to Work Pennsylvania. CLS advocated for Pennsylvania to create the program; was central to shaping the program's design; and remained involved as a consultant throughout its implementation. Unfortunately the Fund was not extended, and Way to Work

was forced to end despite wide support for its continuation. Advocates, employers, and the unemployed alike continue to look for funding to resurrect successful job-creating programs like Way to Work.

### UNEMPLOYMENT COMPENSATION ADVOCACY

As mentioned above, with the unemployment rate over 9 percent for 20 months and counting, more than 26 weeks of unemployment benefits has been a necessity in this recession. In collaboration with PUP and advocates around the country, CLS has succeeded in advocating for the continuation of extended unemployment compensation (UC), preventing tens of thousands of Pennsylvanians from losing a critically needed source of income.

Additionally, CLS continues to advocate that the commonwealth make certain common sense eligibility changes to its UC system. For example, Pennsylvania does not count a person's most recent wages in determining eligibility for UC. This change would make the system fairer for hard-working Pennsylvanians, bring in hundreds of millions of dollars that the federal government has offered Pennsylvania if it makes that change, and aid the commonwealth's insolvent UC

trust fund.

Finally, to help Pennsylvanians navigate the UC system and the myriad other complex benefits programs that exist to help the unemployed, CLS has partnered with PUP to launch [www.PennsylvaniaUnemployed.org](http://www.PennsylvaniaUnemployed.org).

Thousands of people have accessed the site since its launch to get information about available benefits and resources.

### FORECLOSURE PREVENTION

One of the effects of prolonged unemployment is reduced household income, which can make it difficult for homeowners to meet mortgage obligations and eventually lead to foreclosure. Aside from individual representation of hundreds of Philadelphia homeowners facing foreclosure, CLS and PLA have been central players in systemic advocacy efforts aimed at foreclosure prevention.

Along with Common Pleas Judge Annette Rizzo and the city's Foreclosure Task Force, CLS and PLA led the push for Philadelphia's Foreclosure Diversion Program. The program has served as a national model for facilitating successful negotiation as an alternative to displacing financially beleaguered families from their homes.

Most recently, CLS and PLA achieved a

citywide postponement of sheriff's sales. On behalf of PUP, CLS and PLA filed a successful petition to stay the sheriff's sales temporarily while a new foreclosure assistance program gets up and running.

### NOT OUT OF THE WOODS YET

While reports of jobs added and the falling unemployment rate are welcome news, let us not forget the millions of Americans who are still facing incredible hardship. Even with the slight drop in the nation's unemployment rate, it remains above 9 percent.

What's more, with calls for deficit reduction and balancing state budgets in central focus, those already hit hardest by the Great Recession stand to suffer further hardship. Cuts to critically needed public assistance programs would serve to further compound the suffering of the most vulnerable of the commonwealth's residents. Thus, while we all cast our eyes forward to the light at the end of the tunnel, we must not forget the hardship still endured by so many of those around us.

To learn more about Community Legal Services of Philadelphia and Philadelphia Legal Assistance, please visit [www.clsphila.org](http://www.clsphila.org) and [www.philalegal.org](http://www.philalegal.org). •

## Jurisdiction

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retained jurisdiction. They noted that the court had dismissed the case with prejudice in 2005, and the settlement's "logical construct" suggested the court had jurisdiction until dismissal, at which time, its jurisdiction would end.

Seybert denied the dismissal motion as frivolous in a November 2010 decision, ordered the payment of attorney fees to the plaintiff and demanded counsel to show cause on why they should not be sanctioned.

The court concluded that a stipulation of dismissal did not need to explicitly retain jurisdiction or incorporate a settlement's terms

to ensure continuing jurisdiction. Besides, Seybert added, the court's 2005 stipulation of dismissal did incorporate the settlement's terms.

Seybert acknowledged that the dismissal stipulation did not "regurgitate" every single settlement term. "But Defendants point to no authority that requires such mindless repetition, nor do they explain why the law should create a new rule demanding such ceremonial parroting," she wrote, adding, "And the Court itself sees no reason why, to enforce its orders, it must go through the silly and idiotic task of repeating for the parties again what they should already know: the Settlement Agreement's express terms."

In a footnote, Seybert said the *Kokkonen* language referenced by the defendant's attorneys established "only two non-exclusive

methods for retaining jurisdiction. Elsewhere, *Kokkonen* suggests that a judicially ordered settlement, by itself, permits continued jurisdiction under the Court's "inherent power." *Kokkonen*, she noted, allowed courts to keep jurisdiction over a settlement if both parties agreed. "And that's exactly what happened here," she wrote.

To explain how she calculated the sanction, Seybert said the court spent 28 hours handling the dismissal motion and "its Rule 11 fallout" and multiplied that by a \$175-per-hour rate, which is the going rate for a first-year associate's time.

"My time, Judge Wall's time, and the time of our experienced law clerks, is at least as valuable as a first year associate's," she explained.

John J. Lynch and Robert J. deBrauwere

of Pryor Cashman in Manhattan represented the plaintiffs.

DeBrauwere in an e-mailed statement said he was "pleased with the order of sanctions to the extent it furthers our clients' interests, and we believe that the award is warranted in the circumstances — defendants' counsel's frivolous motion practice. It is unfortunate that defendants' counsel have behaved as described by Judge Seybert and we are hopeful that such conduct will now cease. More important is the award of counsel fees that will serve to help make our client whole in this matter."

Hawk Importers has appealed the denial of its dismissal motion to the U.S. Court of Appeals for the Federal Circuit.

*Andrew Keshner is a reporter for the New York Law Journal, a Legal affiliate.* •