UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAUL KREPS, et al., Plaintiffs, v MICHIGAN UNEMPLOYMENT INSURANCE AGENCY, et al., Defendants.	No. 2:22-cv-12020 HON. MARK A. GOLDSMITH **DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR PROSPECTIVE INJUNCITVE RELIEF AS TO DIRECTOR JULIA DALE IN HER OFFICIAL CAPACITY**

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TABLE OF CONTENTS

Page

Table of Contents i

Index of Authorities iii

Concise Statement of Issues Presented v

Controlling or Most Appropriate Authority v

Introduction 1

Statement of Facts 3

CARES Act and Department of Labor guidance regarding fraud 3

Benefit payments during early 2020 6

Limited Facts Regarding Named Plaintiffs 8

Standard of Review 10

Argument 11

I. The law does not require a pre-deprivation hearing and these Plaintiffs have failed to demonstrate insufficient notice or an opportunity to be heard warranting relief. 11

II. Discovery is still ongoing and Plaintiffs' motion fails to provide facts specific to any of the named Plaintiffs or any facts regarding the Agency's current policies. 13

A. Plaintiffs' motion offers no evidence regarding any individual Plaintiff. 14

B. Because Plaintiffs offer no evidence regarding the Agency's current policies or practices, summary judgment and injunctive relief is inappropriate. 15

III. Relief must be limited to the named Plaintiffs because the putative classes are uncertified. 16

IV. The requested relief is ambiguous and injunctive relief is improper when Plaintiffs will not suffer irreparable injury. 18

A. Plaintiffs' motion cannot be granted because of its ambiguous request for relief. 18

B. Plaintiffs do not satisfy the requirements necessary to obtain the extraordinary remedy of a preliminary injunction. 19

Conclusion and Relief Requested 22

Certificate of Service (e-file) 23

INDEX OF AUTHORITIES

Page

Cases

Aluminum Workers Int'l. Union v. Consol. Aluminum Corp,
696 F.2d 437 (6th Cir. 1982) 19

Am. C.L. Union of Kentucky v. McCreary Cnty., Ky.,
607 F.3d 439 (6th Cir. 2010) 11

Celotex Corp. v. Cartrett,
477 U.S. 317 (1986) 11

Collins v. City of Harker Heights,
503 U.S. 115 (1992) 12

Delvin v. Scardelletti,
536 U.S. 1 (2011) 17

Eaton v. Charter Twp. of Emmett,
317 F. App'x 444 (6th Cir. 2008) 12

eBay Inc v. MercExchange, LLC,
547 U.S. 388 (2006) 20, 21

EJS Props., LLC v. City of Toledo,
698 F.3d 845 (6th Cir. 2012) 12

Goldberg v. Kelly,
397 U.S. 254 (1970) 12

Guy v. Absopure Water Co., LLC,
703 F. Supp. 3d 813 (E.D. Mich. 2023) 10, 13, 14, 16

Hanton v. Hantz Financial Services, Inc.,
306 Mich. App. 654 (2014) 16

Jefferson Chevrolet Co. v. Enter. Leasing Co.,
No. 07-15491, 2008 WL 4104363 (E.D. Mich. Aug. 29, 2008) 14

Lampe v. Kash,
735 F.3d 942 (6th Cir. 2013) 12

Lee v. City of Columbus, Ohio,
636 F.3d 245 (6th Cir. 2011) 11, 16

Nedschroef Detroit Corp. v. Bemas Enterprises LLC,
106 F. Supp. 3d 874 (E.D. Mich. 2015), *aff'd*, 646 F. App'x 418
(6th Cir. 2016) 20

Plott v. Gen. Motors Corp., Packard Elec. Div.,
71 F.3d 1190 (6th Cir. 1995) 13

Scott v. Harris,
550 U.S. 372 (2007) 10

Smith v. Bayer Corp,
564 U.S. 299 (2011) 17

Weinberger v. Romero-Barcelo,
456 U.S. 305 (1982) 19

Yang v. City of Wyoming, Michigan,
793 F.3d 599 (6th Cir. 2015) 12, 13

Statute

MCL 125.1998 etc. 10

CONCISE STATEMENTS OF ISSUES PRESENTED

1. This Court should deny Plaintiffs' motion for partial summary judgment and for prospective injunctive relief because the law does not require a pre-deprivation hearing and these Plaintiffs have failed to demonstrate insufficient notice or an opportunity to be heard.

2. This Court should deny Plaintiffs' motion because it presents no evidence regarding any individual Plaintiff or the Agency's current policies.

3. This Court should deny Plaintiffs' motion because summary judgment as to an uncertified class is inappropriate.

4. This Court should deny Plaintiffs' motion because it fails to clearly state what injunctive relief it is requesting, nor will Plaintiffs suffer any irreparable injury.

CONTROLLING OR MOST APPROPRIATE AUTHORITY

Authority: Fed. R. Civ. P. 56

eBay Inc v. MercExchange, LLC, 547 U.S. 388, 391 (2006)

Hanton v. Hantz Financial Services, Inc, 306 Mich. App. 654, 666 (2014)

Yang v. City of Wyoming, Michigan, 793 F.3d 599, 608 (6th Cir. 2015)

INTRODUCTION

Plaintiffs' motion for partial summary judgment and for prospective injunctive relief is an exercise in prematurity. Plaintiffs' motion was filed on July 24, one day before Plaintiffs jointly moved with Defendants to extend the discovery deadline by 90 days.[1] Extensive discovery, including written discovery, document production, and depositions of witnesses knowledgeable regarding the stop payment indicators (SPIs) Plaintiffs' motion revolves around, are not complete. In addition, Plaintiffs' motion is utterly silent regarding who it is seeking relief for. Certainly, it cannot be the individual Plaintiffs as not a single piece of evidence is presented regarding any of them.

Nor does Plaintiffs' motion make a single reference to the uncertified class it purports to represent, and the law does not allow for summary judgment or injunctive relief to protect the interests of an uncertified class. For those reasons alone, Plaintiffs' motion must fail.

Further, the proposition that Plaintiffs rely on to seek summary judgment (i.e., that they are entitled to a pre-deprivation hearing) is not supported by the law and Plaintiffs have failed to demonstrate that

[1] The Court extended the discovery deadline by 61 days. (Dkt. No. 74.)

their due process rights were violated warranting the extraordinary relief of injunction.

Moreover, Plaintiffs' requested relief is so ambiguous as to be meaningless. Plaintiffs request the following relief:

> An order: 1) granting partial summary judgment on the legal issue and finding the practice of suspending benefits without pre-termination notice and opportunity to be heard violated the due process clause of the constitution by depriving Plaintiffs of benefits when due; 2) Ordering an appropriate prospective injunction directing the Director in her official capacity to cease the practices that result in this unconstitutional condition. [Dkt.74, PageID.1856–1857.]

First, it is unclear from Plaintiffs' motion what they consider "suspending benefits." Plaintiffs' position appears to be that any application for benefits, regardless of how many red flags it contains, must be immediately paid out by the Agency if it presents on its face an individual who is monetarily eligible for benefits. During the pandemic, $100 to $135 billion of unemployment insurance funds were lost to fraud.[2] And early in the pandemic, the Agency had to suspend all benefit payments for three days to prevent billions of dollars in payments on millions of obviously fraudulent claims from going out the

[2] https://www.gao.gov/products/gao-24-107471 <accessed August 20, 2024>.

door. Plaintiffs, it appears, believe this would have been the right outcome.

Second, it is unclear what exactly "the practices" are that Plaintiffs assert "results in this unconstitutional condition" and whether and to what extent Plaintiffs claim "the practices" are ongoing. Because Plaintiffs' motion is premature and seeks ill-defined relief, it should be denied.

STATEMENT OF FACTS

CARES Act and Department of Labor guidance regarding fraud

In response to the nationwide COVID-19 epidemic, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020. Pub. L. 116–136, § 2102. It gave states the option of extending unemployment benefits (called Pandemic Unemployment Assistance or PUA) to individuals who ordinarily were ineligible to receive unemployment benefits under existing state law. *Id.* PUA payments include a state's weekly unemployment benefit amount and a supplemental federal benefit. Pub. L. 116–136, § 2104(b)(1)(B). Congress gave states the exclusive right to determine PUA eligibility. Pub. L. 116–136, § 2102(f)(1).

A "covered individual" under the CARES Act is defined as someone who is not eligible for regular unemployment benefits. § 2102 (a)(3)(A)(i). In addition, the claimant must be unemployed due to at least one of eleven specified COVID-related reasons. Pub. L. 116–136, § 2102(a)(3)(A)(ii)(I)(aa) – (kk). Covered individuals had to self-certify regarding their eligibility. Pub. L. 116–136, § 2102(a)(3)(A)(ii)(II).

Shortly thereafter, the Department of Labor (DOL) issued a series of program letters to provide states with operating instructions: DOL 04/05/2020 Unemployment Insurance Program Letter (UIPL) No. 16-20; DOL 04/27/2020 UIPL No. 16-20, Change 1; DOL 07/21/2020 UIPL Letter No. 16-20, Change 2; and DOL 08/27/2020 UIPL No. 16-20, Change 3. (Exs. 1–4; UIPLs.)

In the original UIPL, issued just nine days after the CARES Act was enacted, the DOL required states to process PUA claims as they would under state law unless otherwise provided in Section 2102 of the CARES Act. (Ex. 1; 04/05/2020 UIPL, pp. I-7.)

Change 1, issued on April 27th, established the base period necessary to establish a claim. (Ex. 2; 04/27/2020 UIPL, Change 1, p. I-

4.) To be eligible for benefits, the worker must have worked or earned wages in 2019. *Id*. Self-attestation regarding work and wages is sufficient to file a claim so long as the worker does so under "penalty of perjury." *Id*. at I-7. However, on May 11th, the DOL issued a UIPL reminding states to maintain the integrity of their unemployment programs. (Ex. 5; 05/11/2020 UIPL, No. 23-20, p. 1.) Among other things, DOL strongly recommended that states verify identities, utilize the federal Integrity Data Hub, and perform incarceration cross-matches. (*Id.*, p 8–9.)

Change 2 to UIPL 16-20 directly addressed the inconsistency between self-attestation and the investigation of fraud. The DOL reminded states that they had the authority to request supporting documentation and encouraged states to utilize the cross-matches and tools available to them. (Ex. 3; 07/21/2020 UIPL, Change 2, p I-9.) This included use of the ICON Network, which matches names and social security numbers with the Social Security Administration. (Ex. 5, 05/11/2020 UIPL, No. 23-20, p. 1; Ex. 6, Kolar Tr. p. 46.)

Finally, on August 31st, the DOL issued another UIPL reminding states of their roles and responsibilities in addressing fraud. (Ex. 7;

08/31/2020 UIPL No. 28-20.) The DOL recommended that states intercept potentially fraudulent activity as early as possible to minimize impact on the unemployment system. *Id*. at 3. Further, it encouraged states to explore tools, methods, and strategies to deter and prevent fraud, including the identity verification and cross-match tools available to states. *Id*. at 4–5.

Benefit payments during early 2020

FAST Enterprises (FAST) is the Agency's vendor for the Michigan Integrated Data Automated System (MiDAS) (Ex. 6, Kolar Tr. p. 8) . The Agency, in conjunction with FAST, developed the Agency's Fraud Manager in 2017, which identifies potentially fraudulent claims (i.e., fictitious type unemployment claims), replacing the less effective prior fraud detection system that resulted in Michigan losing $1 million per month due to fraudulent claims (*Id.*, pp. 8–11.)

In May or June of 2020, when an initial claim was filed, certifications were generated for eligible weeks and completed, were flagged due to certain risk factors, and then the Fraud Manager system would automatically generate a non-monetary identity verification issue and a fraud investigation request would be created (*Id.*, pp. 16–17, 34–

35.) If a payment had not been released, the non-monetary identity verification issue triggered by the fraud manager would prevent an initial payment of benefits until the claimant's identity could be verified (*Id.*, pp. 36, 44.) But, if a payment had already been released, the non-monetary identity verification issue triggered by the Fraud Manager would not suspend the payment of benefits unless and until the issue was adjudicated. (*Id.*, pp. 20–22, 34–35.)

During May or June of 2020, if an Agency representative opened a fraud investigation in MiDAS, then that would have stopped payments on that claim (*Id.*, p. 23.) In 2020, fraud investigations could have been triggered by a structured query report (SQR) and SQRs were used to stop payments on groups of claims that the Agency had identified as fictitious and filed by criminals (*Id.*, pp. 23, 25.) Lists of fictitious claims were identified by the Agency in collaboration with the Secret Service, the FBI, DOL, and the Office of Inspector General (*Id.*, p. 25.) Those claimants were then sent null and void determinations by the Agency to their current address and the address the criminal used informing them that a fraudulent claim had been filed (*Id.*, pp. 25–29.)

However, during the period of March 31, 2020, through May 19, 2020, because of a request by former Agency Director Steve Gray, all Fraud Manager rules were suspended except to identify suspicious bank routing numbers. (*Id.*, pp. 36–37.) This action by former Director Gray resulted in a sequencing error during that time in which a claimant's identity was not verified on an initial claim before an initial benefit payment was made by the Agency. (*Id.*, pp. 36–38.) The sequencing error was remedied on May 19, 2020, when all pending payments on that date were stopped by the Agency for a period of three days, which prevented $2.5 to $2.8 billion in fraudulent claims from being paid to overseas criminals. (*Id.*, pp. 38–39.) After the three-day period, all claims began to be run through the Fraud Manager again. (*Id.*, p. 39.)

Limited Facts Regarding Named Plaintiffs

Any evidence regarding the individual Plaintiffs is completely absent from Plaintiffs' motion. All that is offered is one paragraph of empty rhetoric:

> Moreover, each of the Plaintiffs were subject, are subject, or may in the future be subject to the Agency's unconstitutional SPI policies. Moreover, the injury is otherwise capable of repetition yet evading review. The record is replete with

> examples of repetitive indicators, flags, and BPR's on each single plaintiff's file. [Dkt. No. 71, PageID.1853.]

Not a single "SPI policy," past or present, is attached to Plaintiffs' motion. Not a single piece of evidence regarding any individual Plaintiff is presented.

As a result, one has to review other pleadings for any relevant information regarding the parties. Plaintiffs' second amended complaint reveals four Plaintiffs allegedly impacted by a stop payment indicator or benefit payment review: Paul Kreps (stop payment indicator); Robin Shipe (benefit payment review); Christine Holifield (benefit payment review); and Zachary Brazil (stop payment indicator). (Dkt. No. 36, ¶¶ 49, 72, 85, 113.)

Kreps' deposition clarified that he has not been paid because he had not provided the Agency with a method to pay him. Kreps received a letter mailed by the Agency on March 4, 2022, titled "Valid Payment Method Required" notifying Kreps that the Agency was unable to release payment because his financial account that the Agency had on file was no longer active. (Ex. 8, Kreps Tr. p. 50.) Kreps had changed banks. (Kreps Tr. p. 51.) Kreps called the Agency, and, after being unable to change his account information on the automated line, spoke

to a representative. (*Id.*, p. 100.) The representative could not take his bank account information over the phone, and Kreps was unwilling to accept a debit card. (*Id.*) Kreps testified he was now willing to accept a debit card but had not called the Agency to obtain one. (*Id.*, p. 101.)

Similarly, Holifield's deposition clarified that she received a favorable decision from the Unemployment Insurance Appeals Commission regarding her eligibility for benefits in July of 2022.[3] (Ex. 9, Holifield Tr. p. 23.) Holifield was paid the remaining benefits owed to her because of the Appeals Commission's decision in February of 2023. (*Id.*, p. 36.)

STANDARD OF REVIEW

A movant is entitled to summary judgment only where the party shows there is no genuine dispute as to any material fact, and judgment as a matter of law is appropriate. *Guy v. Absopure Water Co., LLC*, 703 F. Supp. 3d 813, 816, n. 2 (E.D. Mich. 2023) (citing *Scott v. Harris*, 550 U.S. 372, 380 (2007)). The nonmovant is required to come forward with

[3] The Appeals Commission is made up of a panel of seven commissioners appointed by the Governor and adjudicates the matters before it independently of the Agency. Mich. Comp. Laws 125.1998 § 3(a) and (b).

evidence showing there is a genuine issue for trial only where the movant "makes an initial showing that there is an absence of evidence to support the nonmoving party's case." *Id.* (citing *Celotex Corp. v. Cartrett*, 477 U.S. 317, 324–325 (1986)).

The standard for a permanent injunction is the same as for a preliminary injunction, but the plaintiff must show actual (rather than likely) success on the merits. *Am. C.L. Union of Kentucky v. McCreary Cnty., Ky.*, 607 F.3d 439, 445 (6th Cir. 2010). Here, that means Plaintiffs must show they "suffered a constitutional violation and will suffer continuing irreparable injury for which there is no adequate remedy at law." *Lee v. City of Columbus, Ohio*, 636 F.3d 245, 249 (6th Cir. 2011).

ARGUMENT

I. The law does not require a pre-deprivation hearing and these Plaintiffs have failed to demonstrate insufficient notice or an opportunity to be heard warranting relief.

Plaintiffs argue that "pre-termination notice" of their unemployment benefits did not occur as required. (Dkt. 71, PageID.1845–1854.) Contrary to Plaintiffs' assertion, the Social Security Act does not require a pre-deprivation hearing. (Dkt. 71,

PageID.1845–1854.) Rather, in only one case, *Goldberg v. Kelly*, 397 U.S. 254 (1970), involving welfare benefits, has the Court held that a hearing closely approximating a judicial trial is necessary before governmental benefits may be terminated. *Id.* at 266–271.

Further, procedural due process guarantees "the government [must] provide a 'fair procedure' when depriving someone of life, liberty, or property." *EJS Props., LLC v. City of Toledo*, 698 F.3d 845, 855 (6th Cir. 2012) (citing *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992)). The notice and hearing requirements imposed by the Due Process Clause include a "reasonably definite statement of the charge" so that the interested party "can appear at the hearing and offer any objections." *Yang v. City of Wyoming, Michigan,* 793 F.3d 599, 608 (6th Cir. 2015) (quoting *Eaton v. Charter Twp. of Emmett,* 317 F. App'x 444, 448 (6th Cir. 2008)).

"The Constitution judges the adequacy of notice from the perspective of the sender, not the recipient." *Yang,* 793 F.3d at 602 (*quoting Lampe v. Kash*, 735 F.3d 942, 944 (6th Cir. 2013)). Courts look at the aggregate of sender's efforts at providing notice to determine if

they were "reasonable" under the "particular circumstances." *Yang,* 793 F.3d at 603 and 605.

Here, Plaintiffs' motion for partial summary judgment and prospective injunctive relief has failed to cite to any evidence to establish that any of the named Plaintiffs have not been given notice and an opportunity to be heard regarding any outstanding issues that may affect their eligibility or qualification. (Dkt. 71, PageID.1826–1861.) Instead, it offers generalized conclusory statements without even addressing any of the Plaintiffs by name, but for the pleading's caption. (Dkt. 71.) As a result, there is a triable issue of material fact and Plaintiffs' request for partial summary disposition and prospective injunctive relief should be denied. *Guy*, 703 F. Supp. 3d at 816, n. 2.

II. Discovery is still ongoing, and Plaintiffs' motion fails to provide facts specific to any of the named Plaintiffs or any facts regarding the Agency's current policies.

Before ruling on a summary judgment motion, parties must have "adequate time for discovery, in light of the circumstances of the case." *Plott v. Gen. Motors Corp., Packard Elec. Div.*, 71 F.3d 1190, 1195 (6th Cir. 1995) (citation omitted). And typical practice is to defer consideration of summary judgment until the close of discovery

especially where, as here, there are "significantly divergent views of the record compiled to date, and where it appears that important avenues of discovery-e.g., depositions-had yet to be pursued[.]" *Jefferson Chevrolet Co. v. Enter. Leasing Co.*, No. 07-15491, 2008 WL 4104363, at *1 (E.D. Mich. Aug. 29, 2008) (Attached as Ex. 10).

Applying those concepts here only *helps* Plaintiffs. Plaintiffs request prospective injunctive relief but provide no evidence regarding the Agency's current policies or procedures. Nor do Plaintiffs present any evidence at all regarding any individual Plaintiff. Summary judgment is therefore inappropriate. *Guy*, 703 F. Supp. 3d at 816, n. 2.

A. Plaintiffs' motion offers no evidence regarding any individual Plaintiff.

Plaintiffs' motion is bereft of any evidence regarding any of the individual Plaintiffs—only a conclusory statement, unsupported by any record evidence that "each of the Plaintiffs were subject, are subject, or may in the future be subject to the Agency's unconstitutional SPI policies." (Dkt. No. 71, PageID.1853.) Left wholly unexplained by Plaintiffs' motion is how summary judgment is appropriate when no

evidence of any kind is offered regarding any of the individual Plaintiffs. The obvious, and only, answer is that it is not.

As detailed above, the second amended complaint alleges four individual Plaintiffs were subject to stop payment indicators and benefit payment reviews, but no evidence is provided regarding any individual Plaintiffs. And Holifield has been paid all benefits owed and Kreps have never provided updated payment information to the Agency. (Ex. 8, Kreps Tr. p. 101; Ex. 11, Holifield Tr. p. 36.) Plaintiffs have simply offered no evidence to support a conclusion that any "unconstitutional SPI policy" is currently impacting the status of any of Plaintiffs' claims, let alone any hypothetical future claim.

B. Because Plaintiffs offer no evidence regarding the Agency's current policies or practices, summary judgment and injunctive relief is inappropriate.

Plaintiffs' motion presents limited and out-of-context evidence regarding the Agency's practices during the pandemic and the number of claims subject to stop payment indicators. But discovery is still ongoing regarding the Agency's practices during the pandemic. (Dkt. No. 74.) Indeed, the deposition of Timothy Kolar, whose testimony revolves around the Agency's practices relating to suspected fraud and

stop payment indicators, is still open. (Ex. 6, Kolar Tr. p. 278.) In any event, the relief sought by Plaintiffs is a finding that the Agency's ongoing practices are unconstitutional and should be enjoined. But Plaintiffs' motion provides no basis on which the Court can reach such a conclusion.

Despite seeking summary judgment regarding the Agency's allegedly "unconstitutional SPI policy" and prospective injunctive relief, Plaintiffs' motion fails to offer: 1) any evidence concretely defining what a stop payment indicator is; 2) any evidence regarding what the Agency's current policies and practices are; and 3) any argument that those unelucidated policies and practices violate any of Plaintiffs' due process rights. Because Plaintiffs have failed to explain any of these issues to the Court, summary judgment or injunctive relief is inappropriate. *Guy*, 703 F. Supp. 3d at 816, n. 2.; *Lee*, 636 F.3d at 249.

III. Relief must be limited to the named Plaintiffs because the putative classes are uncertified.

Unnamed putative class members are not parties to an action where the class has not been certified. See *Hanton v. Hantz Financial Services, Inc.*, 306 Mich. App. 654, 666 (2014), citing *Smith v. Bayer*

Corp, 564 U.S. 299, 315 (2011). As stated by the United States Supreme Court in *Smith,* which was relied on heavily by the *Hanton* court, courts have been unwilling "to advance the novel and surely erroneous argument that a nonnamed class member is a party to the class-action litigation *before the class is certified*." *Smith*, 564 U.S. at 313, quoting *Delvin v. Scardelletti*, 536 U.S. 1, 16, n. 1 (2011) (opinion of Scalia, J., emphasis in original).

Plaintiffs purportedly seek an injunction to protect not only themselves, but also every possible member of the putative classes detailed in their second amended complaint. (Dkt. 36, PageID.1243–1244; Dkt. 71, PageID.1854–1867.) But no class motion has been filed, let alone certified in this matter, so any putative class members are not yet parties entitled to injunctive relief. Even if an injunction is warranted, a point which the Defendants are not conceding for the reasons discussed herein, it should be limited to only the named Plaintiffs.

IV. The requested relief is ambiguous and injunctive relief is improper when Plaintiffs will not suffer irreparable injury.

Not only is Plaintiffs' requested relief ambiguous, but a party is only entitled to permanent injunctive relief when it can show "it suffered a constitutional violation and will suffer continuing irreparable injury for which there is no adequate remedy at law." *Lee*, 636 F.3d at 249 (reversing permanent injunction in class action claim).

A. Plaintiffs' motion cannot be granted because of its ambiguous request for relief.

Plaintiffs request the following relief:

> An order: 1) granting partial summary judgment on the legal issue and finding the practice of suspending benefits without pre-termination notice and opportunity to be heard violated the due process clause of the constitution by depriving Plaintiffs of benefits when due; 2) Ordering an appropriate prospective injunction director the Director in her official capacity to cease the practices that result in this unconstitutional condition. [Dkt.74, PageID.1856–1857.]

As noted above, Plaintiffs' motion fails to explain what exactly "the practices" are or offer any evidence that "the practices" are ongoing or impact any of the Plaintiffs. Are Plaintiffs requesting that the Agency be prohibited from ever using a stop payment indicator? Nothing before the Court supports the conclusion that every instance of a stop payment indicator or benefit payment review is unconstitutional.

And again, the motion presents no evidence regarding either of these practices as it relates to the individual Plaintiffs, or how there was, or remains, any constitutional violation. Because the actual relief sought by Plaintiffs is unclear, the motion should be denied.

B. Plaintiffs do not satisfy the requirements necessary to obtain the extraordinary remedy of injunctive relief.

This Court should deny Plaintiffs' request for injunction as it fails to meet the factors for this extraordinary relief. The decision to grant or deny injunctive relief is an act of equitable discretion by the Court. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 320 (1982). Resort to equity is an extraordinary step that this Court must not take lightly.

"There is no power the exercise of which is more delicate, which requires greater caution, deliberation, and sound discretion, or more dangerous in a doubtful case, than the issu[ance of] an injunction." *Aluminum Workers Int'l. Union v. Consol. Aluminum Corp*, 696 F.2d 437, 442 (6th Cir. 1982). Because equitable relief is an extraordinary remedy to be cautiously granted, the scope of relief should be strictly tailored to accomplish only that which the situation specifically

requires, and which cannot be attained through legal remedy. *Id.*, at 466.

A plaintiff seeking injunctive relief must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: "(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *eBay Inc v. MercExchange*, LLC, 547 U.S. 388, 391 (2006). A plaintiff's harm is not irreparable if there is an adequate remedy at law, which includes monetary damages. *Id.* An injury is not fully compensable by monetary damages if the nature of the loss makes damages difficult to calculate. *Nedschroef Detroit Corp. v. Bemas Enterprises LLC*, 106 F. Supp. 3d 874, 890 (E.D. Mich. 2015), *aff'd*, 646 F. App'x 418 (6th Cir. 2016).

Plaintiffs' motion has failed to present any evidence of either a continuing irreparable injury on the part of any of the Plaintiffs or that any injury is not compensable by money damages. (Dkt. 71,

PageID.1854–1856.) Further, this litigation is about the payment of unemployment benefits. Thus, it is about money damages. As stated above, money damages are not considered irreparable harm and can be addressed should a plaintiff's litigation be successful. *eBay Inc*, 547 U.S. at 391.

CONCLUSION AND RELIEF REQUESTED

For the reasons set forth above, Defendants respectfully request that this Court deny Plaintiffs' motion for partial summary judgment and prospective injunctive relief.

Respectfully submitted,

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Dated: August 28, 2024

CERTIFICATE OF SERVICE (E-FILE)

I hereby certify that on August 28, 2024, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

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INDEX OF EXHIBITS

Exhibit 1: UIPL No. 16-20

Exhibit 2: UIPL No. 16-20, Change 1

Exhibit 3: UIPL No. 16-20, Change 2

Exhibit 4: UIPL No. 16-20, Change 3

Exhibit 5: UIPL No. 23-20

Exhibit 6: Excerpts, August 1, 2024 Deposition of Timothy Kolar

Exhibit 7: UIPL No. 28-20

Exhibit 8: Excerpts, July 9, 2024 Deposition of Paul Kreps

Exhibit 9: Excerpts, July 18, 2024 Deposition of Christine Holifield

Exhibit 10: *Jefferson Chevrolet Co. v. Enter. Leasing Co.*, No. 07-15491, 2008 WL 4104363 (E.D. Mich. Aug. 29, 2008)