No. 25-1497
In the United States Court of Appeals
for the Sixth Circuit

PAUL KREPS, DIANA BOUDRIE, ROBIN SHIPE, ISABELLA FOSTER, CHRISTINE HOLIFIELD, PATRICIA MYROLD, ANDREW MYROLD, RICHARD BRAINER, MARISSA QUIGG
Plaintiffs-Appellants
v.
MICHIGAN UNEMPLOYMENT INSURANCE AGENCY, JULIA DALE, KIMBERLY BERRY, TERESA BURNS, JOHN DOE 1-3
Defendants-Appellees.

On Appeal from the Eastern District of Michigan at Detroit, Case No. 2:22-cv-12020

Brief of Amici Curiae, Michigan Poverty Law Program, National Employment Law Program, Center for Civil Justice, Michigan AFL-CIO, Michigan League for Public Policy, Maurice and Jane Sugar Law Center for Economic and Social Justice, and Street Democracy, in Support of Plaintiffs-Appellants and Supporting Reversal of the District Court

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Corporate Disclosure Statement (FRAP 26.1, 29(a)(4)(A))

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), undersigned counsel makes the following disclosures:

1. Is any Amici a subsidiary or affiliate of a publicly-owned corporation? If yes, list below the identity of the parent corporation or affiliate and the relationship between it and the named party:
   Amici answer: No.
2. Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list the identity of such corporation and the nature of the financial interest.
   Amici answer: No.

Amici Curiae are all non-profit entities and have no parent corporations. No publicly owned or traded corporation owns, in whole or in part, any of the Amici.

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Amici Curiae Statements of Interest & Consent to File

Amici are organizations that support and/or provide legal services to workers. Through various channels of assistance, Amici have gained insights into the experiences of Michigan workers who experience unemployment and navigate Michigan's Unemployment Insurance Agency (UIA). Amici's observations of how workers' interactions with UIA impacted them, and particularly, how pandemic-era unemployment compensation issues harmed workers and their families, will assist the Court in evaluating this case.

All parties consented to the filing of the Amicus brief via email transmissions on February 2, 2026. F.R.A.P. 29(a)(2).

Amicus National Employment Law Project (NELP) is a non-profit organization with fifty-five years of experience advocating for the employment and labor rights of low-paid and unemployed workers. NELP is a national expert on unemployment insurance, and advocates

for broad access to and coverage of workers under the federal-state unemployment insurance system.

Amicus Center for Civil Justice (CCJ) is a non-profit organization that uses its expertise on laws and policies affecting low-income people to act as a voice for those individuals and enables them to receive assistance through social safety net programs. Through legal action, legislative and policy advocacy, educational initiatives, and collaborative strategies, CCJ achieves systemic changes that improve the lives of thousands of low-income individuals and families. CCJ also provides legal and technical assistance to advocates and organizations statewide on a variety of policy issues, especially those related to housing, healthcare, food and nutrition and economic self-sufficiency.

Amicus Michigan AFL-CIO is the state's largest federation of unions, representing more than one million working people across Michigan through affiliated local unions and labor councils. The Michigan AFL-CIO advocates for workers' rights, economic security, and strong labor standards, and has a longstanding interest in the fair,

reliable administration of unemployment compensation - an essential wage-replacement benefit that helps workers and their families maintain housing, health, and basic necessities during involuntary job loss. During the COVID-19 pandemic, the Michigan AFL-CIO and its affiliates regularly assisted members and working families navigating the UIA system and observed firsthand how delays, erroneous determinations, and interruptions in benefits inflicted immediate and often compounding harm.

As a non-partisan non-profit advocacy organization, amicus Michigan League for Public Policy (MLPP) uses data to educate and advocate for policy solutions that undo historic and systemic racial and economic inequities. MLPP's staff helps connect local partners to the policy process and provide crucial data to law makers so they may create policy that best serves their constituents. For 114 years, MLPP has worked to promote the rights of working Michiganders. Today, this includes advocating for a fair and effective unemployment insurance system that supports Michigan's working families.

Amicus Michigan Poverty Law Program (MPLP) works to advance the health, safety, and economic security of low-income Michiganders and advance racial justice. It does so by working in partnership with individuals, community organizations, legal aid organizations, and policymakers to make lasting, impactful systems change. For nearly three decades, MPLP has advised and counseled legal aid attorneys and clients working on unemployment matters. In this role, MPLP can observe systemic barriers to accessing unemployment.

Amicus Maurice and Jane Sugar Law Center for Economic and Social Justice (Sugar Law Center) is a national non-profit, public interest law center headquartered in Detroit, but serving individuals and organizations nationwide. Sugar Law Center provides advocacy, representation, education, research, and technical support to empower low-income workers, their families, and community groups seeking systemic change toward economic and social justice. Sugar Law Center has represented thousands of workers in unemployment related

matters and has been at the forefront of efforts to address and correct automated determination errors in Michigan's UI system.

Amicus Street Democracy is a nonprofit legal reform organization dedicated to restructuring systems that perpetuate poverty. Street Democracy's advocacy focuses on the "Justice Architecture" of Michigan's courts and agencies, pushing for reforms that simplify procedures and protect the legal and property interests of vulnerable residents. Street Democracy recognizes that for the vast majority of litigants—particularly in high-stakes administrative areas like unemployment insurance—pro se representation is the rule, not the exception. A core belief of Street Democracy is that access to justice is illusory if procedural requirements function as barriers rather than pathways. In the context of unemployment benefits, Street Democracy asserts that the agency has an affirmative responsibility to safeguard a claimant's right to a fair hearing. This principle is deeply rooted in the standard that pro se filings must be held to less stringent requirements to prevent the forfeiture of essential rights. Street Democracy believes

true due process requires the system to adapt to the individual, ensuring that every Michigander—regardless of their ability to afford an attorney—has a meaningful opportunity to be heard and a fair shot at a stable future.

Non-Affiliation with Parties

Pursuant to Rule 29 of the Federal Rules of Appellate Procedures, Amici represent that no party's counsel authored the brief in whole or in part or contributed money intended to fund preparing or submitting the brief. Pursuant to Federal Rule of Appellate Procedure 29(a), all parties have consented to the filing of this brief. No person, other than Amici, their members, or their counsel, contributed money intended to fund preparing or submitting the brief.

Summary of Argument

The federal-state unemployment compensation system, created by the Social Security Act (SSA) of 1935, provides crucial income support to workers with qualifying job separations. Michigan's statute creating the state's unemployment system is the Michigan Employment Security Act of 1936 (MESA). "The purpose of the Michigan Employment Security Act … a remedial act, is to safeguard the general welfare through the dispensation of benefits intended to ameliorate the disastrous effects of involuntary unemployment." *Tomei v. Gen. Motors Corp.*, 194 Mich. App. 180, 184, 486 N.W.2d 100 (1992). The state legislature said that MESA was adopted because: "Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people" that "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 [Michigan]."[1]

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[1] Mich. Comp. Laws § 421.2.

During economic downturns, unemployment compensation serves to stabilize the broader economy. By supplying critical income support, unemployment compensation prevents a vicious cycle of unemployment, decreased consumer spending, and secondary unemployment due to lower demand. Indeed, during the last two recessions, supplemental unemployment compensation targeted nearly $1.4 trillion to individuals and families who were most likely to reinvest those funds back in the economy through continued spending on goods and services.[2] During the COVID-19 pandemic, supplemental unemployment compensation kept 5.5 million people from falling into poverty, including 1.4 million children.[3]

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[2] *Building Resilience: A Plan for Transforming Unemployment Insurance*, U.S. Dep't of Lab. (Apr. 2024), https://oui.doleta.gov/unemploy/pdf/transfplan/Building_Resilience_Executive_summary.pdf.

[3] Liana Fox & Kalee Burns, *The Supplemental Poverty Measure: 2020*, U.S. Census Bureau (Sept. 14, 2021), https://www.census.gov/library/publications/2021/demo/p60-275.html.

Unemployment compensation works because it is predictable when the rest of a worker's life is not. It allows families to cover basic needs after unexpected job loss. Accordingly, when supplemental unemployment compensation is deployed in times of crisis, it is especially important that its mechanism be reliable and that eligible workers can defend their property interest in it. Due process protections are key to allowing workers to rely on unemployment compensation when they need it most. The stabilizer must itself be stable.

Argument

Unemployment compensation plays a crucial role at both a macro- and micro-economic level. Where unemployment compensation does not serve its steadying purpose, the hole left in family finances tears through their lives as well as the greater economy. Throughout its existence, unemployment compensation has been supplemented so it could be nimble enough to respond to new challenges. The COVID-19 pandemic was one such challenge—when scrambling to earn a living

amidst a public health emergency also meant risking exposure to a deadly virus.

I. Supplemental unemployment compensation has always been used to stabilize the economy during crises.

From its origins, the unemployment compensation program has been a "first line of defense"[4] to mitigate economic hardship for jobless workers. Congress adopted unemployment compensation and the rest of the SSA amidst the unprecedented, desperate context of the Great Depression.[5] Since then, unemployment compensation has been repeatedly deployed in times of crisis.

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[4] Ewan Clague, *The Relationship Between Unemployment Compensation and Relief from a National Point of View*, Soc. Sec. Bull., at 7 (June 1938), https://www.ssa.gov/policy/docs/ssb/v1n6/v1n6p7.pdf.

[5] *Historical Background and Development of Social Security*, Soc. Sec. Admin., https://www.ssa.gov/history/briefhistory3.html; *see also* Arthur Altemeyer, *Speech at the Washington Legislative Seminar of the National Federation of Settlements & Neighborhood Centers* (Feb. 29, 1960), Soc. Sec. Admin., https://www.ssa.gov/history//aja260.html (stating, "In 1933 the situation had become desperate: local measures had failed, local finances had given out; a half-dozen states had set up emergency relief administrations, and they ran out of money.")

Congress enacted supplemental unemployment compensation to support workers during recessions and other times of economic turmoil almost every decade since enacting the SSA. COVID-19 pandemic-era unemployment compensation programs are only the latest iteration in this long tradition.[6] To name just a few such programs: Temporary Unemployment Compensation Act of 1958,[7] the Emergency Unemployment Compensation Act of 1971,[8] the Federal Supplemental Compensation Act of 1982,[9] and the Temporary Extended Unemployment Compensation Act of 2002.[10]

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[6] *See Special Federal Extension and Supplemental Benefit Programs*, U.S. Dep't of Lab. Emp. & Training Admin. (Jan. 26, 2026), https://oui.doleta.gov/unemploy/spec_ext_ben_table.asp (listing UI supplemental programs).

[7] Pub. L. No. 85-441, 72 Stat. 171, 171 (1958); Charles Evan Stewart, *Unemployment Compensation-Response to a Crisis* , 61 Cornell L. Rev. 823 (1976).

[8] Pub. L. No. 92-224, 85 Stat. 810, 811 (1971); Stewart, supra note 7.

[9] Pub. L. No. 97-248, 96 Stat. 324, 702 (1982).

[10] Pub. L. No. 107-147, 116 Stat. 21, 26 (2002).

During the Great Recession of the late 2000s, Congress created and repeatedly expanded federally funded Emergency Unemployment Compensation (EUC) programs that allowed many workers to receive up to ninety-nine weeks of unemployment insurance—well beyond the usual twenty-six weeks of regular UI.[11] These programs were fully or largely financed by the federal government, often through the American Recovery and Reinvestment Act, and were designed to respond to high long-term unemployment.[12] Studies suggest that these extended

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[11] U.S. Dep't of Labor, *Additional Unemployment Compensation Benefits During the Great Recession: Recipients and Their Post-Claim Outcomes Final Report* (Mar. 1, 2016), https://www.dol.gov/resource-library/additional-unemployment-compensation-benefits-during-great-recession-recipients; William J. Congdon & Wayne Vroman, *Extending Unemployment Insurance Benefits in Recessions* (Feb. 2021), https://www.urban.org/sites/default/files/publication/103720/extending-unemployment-insurance-benefits-in-recessions-lessons-from-the-great-recession_2.pdf.

[12] Stephen A. Wandner & Randall W. Eberts, *Public Workforce programs during the Great Recession*, U.S. Bureau of Lab. Stat.: Monthly Lab. Rev. (July 2014), https://www.bls.gov/opub/mlr/2014/article/public-workforce-programs-during-the-great-recession.htm.

benefits substantially reduced income losses and provided important macroeconomic support, allowing the country to recover.[13]

Since 1970, supplemental unemployment compensation has also existed to steady income after natural disasters.[14] Disaster unemployment assistance (DUA) payments are "considered entitlements for eligible workers . . . ."[15] DUA has meant that low- and middle-income households bear "considerably less risk" in natural disasters because income may be replaced during recovery.[16] This predictability of DUA as a stop gap has meant that workers can

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[13] *Id. See also* William J. Congdon & Wayne Vroman, *Extending Unemployment Insurance Benefits in Recessions* (Feb. 2021), https://www.urban.org/sites/default/files/publication/103720/extending-unemployment-insurance-benefits-in-recessions-lessons-from-the-great-recession_2.pdf.

[14] *Unemployment and Employment Programs Available to Workers Affected by Disasters*, Cong. Rsch. Serv. (Apr. 30, 2018), https://www.congress.gov/crs-product/R45182.

[15] *Id.*

[16] Regina Pleninger, *Impact of natural disasters on the income distribution*, 157 World Development (Sept. 2022), https://doi.org/10.1016/j.worlddev.2022.105936. .

prioritize their families' safety and health instead taking risks to avoid financial disaster.[17] Indeed, DUA served as a model for Pandemic Unemployment Assistance (PUA) during the COVID-19 crisis and Congress incorporated DUA's regulatory framework for PUA.

Considering this historical context, it easy to predict that federal action may be needed in the future to supplement unemployment compensation so that it can do its job: stabilize the economy. But the

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[17] Michiganders' faith in the reliability of unemployment compensation has been tested over recent years. For example, during the false fraud scandal brought on by Michigan's fraught implementation of MiDAS unemployment software system, nearly 40,000 Michiganders were incorrectly accused of defrauding the UI system. *See, e.g.*, *Michigan Unemployment Insurance False Fraud Determinations*, Benefits Tech Adv. Hub, https://www.btah.org/case-study/michigan-unemployment-insurance-false-fraud-determinations.html. More recently, re-initiation of collections on overpayments that arose during the pandemic has caused confusion and fear among those impacted—with one impacted person sharing simply "I'm really scared." *See*, *e.g.*, Colin Roose, "*I'm really scared": Michigan collecting on COVID-era unemployment overpayments*, News Channel 3 (Oct. 8, 2025), https://wwmt.com/news/local/michigan-collecting-covid-era-unemployment-overpayments-pandemic-assistance-insurance-agency-lawsuit-class-action. These sentiments underscore the importance of predictability in the system.

only way that supplemental unemployment compensation can play this role is if it is also predictable for workers and their families. Such a reliable, defensible entitlement is the only way that supplemental unemployment compensation can help mitigate a crisis, so that workers can take it to the bank—both literally and figuratively.

The glossary below may be helpful to the reader for various interrelated terms used in this brief:

- Unemployment compensation: Umbrella term including all of the types of programs below and similar programs supporting unemployed workers.
- UI: The federal-state program created by the Social Security Act of 1935, administered by states within federal parameters.
- Supplemental unemployment compensation: Catch-all term for programs such as those described below that use unemployment compensation and build on UI to address specific crises, problems, or events, such as the programs listed below.
- DUA: Disaster Unemployment Assistance provides temporary income support for people, including self-employed workers and farmers, who lost their jobs or had work interrupted due to a presidentially declared major disaster.
- PEUC: Pandemic Emergency Unemployment Compensation, which was a federal program that extended unemployment benefits for workers who exhausted their regular benefits in the context of the COVID-19 pandemic.
- PUA: Pandemic Unemployment Assistance provided temporary benefits to workers who were typically ineligible for regular UI, incorporating the DUA regulatory framework.

- Pandemic-era unemployment: Term for both PEUC and PUA (relevant to this brief), as well as two other programs adopted during the COVID-19 pandemic, Federal Pandemic Unemployment Compensation and Mixed Earners Unemployment Compensation (not discussed extensively in this brief).

II. Michigan workers experienced pronounced hardship during the COVID-19 pandemic.

Michigan's experience during the COVID-19 downturn cannot be understood in isolation from the state's recent economic history. Before COVID-19, Michigan was still emerging from the deep scars of the Great Recession, as well as its own recession that started four years before that.[18] The U.S. Bureau of Labor Statistics reports that Michigan's unemployment rate peaked at 15.2% in June 2009—one of the highest state unemployment rates in the country at that time and well above the national peak of 10.0%.[19] The downturn was closely tied

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[18] Martin Lavelle, *How Tight is Michigan's Labor Market?*, Fed. Rsrv. Bank of Chi. (Oct. 11, 2016), https://www.chicagofed.org/publications/blogs/michigan-economy/2016/how-tight-is-michigans-labor-market.

[19] *State unemployment rates: June 2009, Unemployment Rates for States*, U.S. Bureau of Lab. Stat. (July 21, 2009), https://www.bls.gov/opub/ted/2009/jul/wk3/art02.htm. .

to the collapse in auto production and sales.[20] By 2017, more than 40 percent of Michigan households were impoverished or struggled to afford basic needs from housing to child care.[21]

In April 2020—at the onset of the COVID-19 pandemic and associated public-health restrictions—Michigan's seasonally adjusted unemployment rate spiked to 22.7%, among the highest in the nation and far above the national rate of 14.7% at that time.[22] Michigan's April 2020 unemployment rate exceeded its peak jobless rate during the Great Recession by a substantial margin, reflecting the extraordinary nature of the pandemic shock.

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[20] *Id.*

[21] Lindsay VanHulle, *Study: More Michiganders struggle to afford basic needs,* Bridge Mich. (Mar. 20, 2019), https://bridgemi.com/michigan-government/study-more-michiganders-struggle-afford-basic-needs/.

[22] *43 states at historically high unemployment rates in April 2020*, U.S. Bureau of Labor Statistics (May 28, 2020), https://www.bls.gov/opub/ted/2020/43-states-at-historically-high-unemployment-rates-in-april-2020.htm.

During 2020, a substantial share of Michigan adults reported losing employment income in their household in connection with the pandemic and related public-health orders.[23] Many Michigan workers reported difficulty paying for usual household expenses and heightened concerns about housing and food security during this period.[24] Low-wage workers and workers of color bore a disproportionate share of pandemic-related job losses and reductions in hours.[25] Many of these workers were concentrated in sectors shut down or sharply curtailed by

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[23] *Phase 3 Household Pulse Survey Data Tables*, U.S. Census Bureau (Dec. 16, 2020), https://www.census.gov/programs-surveys/household-pulse-survey/data/tables.2020.html#phase3.

[24] VanHulle, supra, note21.

[25] Richard V. Reeves & Jonathan Rothwell, *Class & COVID: How the less affluent face double risks*, Brookings (Mar. 27, 2020), https://www.brookings.edu/articles/class-and-covid-how-the-less-affluent-face-double-risks/; C.J. Moore, *The rich can pay to avoid pain, but the pandemic is taking a tolling crush on the poor*, Mich. Advance (July 2, 2020), https://michiganadvance.com/2020/07/02/the-rich-can-pay-to-avoid-pain-but-the-pandemic-is-taking-a-crushing-toll-on-the-poor/.

the pandemic, including restaurants, hotels, retail, and certain health-care and personal-care occupations.[26]

The City of Detroit, as the historic center of the domestic auto industry, experienced steep population loss, a shrinking tax base, and persistently high unemployment before, during, and after the Great Recession, culminating in the City's 2013 municipal bankruptcy.[27] These conditions left many Detroit workers and neighborhoods with limited reserves to withstand another severe downturn when COVID-19 struck, and the pandemic's blow to Detroiters was extreme and unequal. There were at least 3,296 deaths in Detroit, and Black people experienced 3.6 times the mortality rate of white people.[28] The

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[26] *Id.*

[27] Nathaniel Meyersohn & Matt Egan, *Detroit is back from the dead. But not everyone is feeling it*, CNN Business (Nov. 5, 2025) https://www.cnn.com/2025/11/05/business/detroit-bankruptcy-jpmorgan-rocket-mortgage.

[28] *COVID-19 Deaths, Pneumonia & Influenza Deaths Reported by Heath District, Michigan Occurrences, January 1, 2020 to December 30,*

pandemic reduced Detroit's payroll employment by approximately 17,700 jobs in 2020, and overall employment in the city declined by 7.8 percent that year.[29] Representative surveys of Detroit residents found substantial, persistent job loss and financial hardship.[30]

All told, the COVID-19 pandemic did not merely raise Michigan's unemployment rate in a routine, cyclical downturn. It produced an abrupt and unprecedented spike in joblessness, followed by a period of instability in employment, hours, and income. Workers across

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2025, Mich. Dep't Comty. Health, https://www.mdch.state.mi.us/osr/Provisional/CvdTable7.asp; Alyssa S. Parpia et al., *Racial disparities in COVID-19 mortality across Michigan, United States*, Nat'l Inst. of Health (Feb. 26, 2021), https://pmc.ncbi.nlm.nih.gov/articles/PMC7933264/.

[29] Jacob T. Burton et al., *Summary Update to the Detroit Economic Outlook for 2020–2025*, Rsch. Seminar in Quantitative Econ., Univ. of Mich. (Feb. 16,2021), https://detroitmi.gov/sites/detroitmi.localhost/files/2022-05/Detroit%20Forecast%20Update%20(2021.02).pdf.

[30] Desiree Hatcher & Jeremiah P. Boyle, *Detroit's Revenue Structure: Part 2, Impact of Covid-19*, Fed. Rsrv. Bank of Chi. (Aug. 3, 2021), https://www.chicagofed.org/publications/blogs/michigan-economy/2021/detroit-revenue-structure-part-2.

Michigan—particularly low-wage workers and workers of color—faced repeated spells of unemployment, underemployment, and significant difficulty meeting basic needs. Accordingly, the need for supplemental unemployment compensation became evident, much as it had during the Great Recession or as it does during natural disasters.

III. Unemployment compensation performs a critical function, with corresponding protection.

Unemployment compensation plays a distinct role in the social safety net but sits alongside other entitlements. It operates as a counter-cyclical stabilizer by providing more generous benefits during downturns, when unemployment rises, thereby sustaining consumer spending and mitigating recessionary pressures.[31] Pandemic-era compensation was no different.

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[31] *See, e.g.*, *The Unemployment Insurance System in Two Recent Economic Downturns: Lessons from the Great Recession and the COVID-19 Recession Final Report*, U.S. Dep't of Labor (Mar. 1, 2021), https://www.dol.gov/resource-library/unemployment-insurance-system-two-recent-economic-downturns-lessons-great; Camille Landais, Pascal

In keeping with other entitlement programs, this Court has explained that recipients of UI "have constitutionally-protected property interests in unemployment benefits." *Cahoo v. SAS Analytics Inc.*, 912 F.3d 887, 900 (6th Cir. 2019) (citing *Goldberg v. Kelly*, 397 U.S. 254, 262 (1970)). This property interest exists even though states have significant discretion in designing their own unemployment program, as with every other part of the federal–state social safety net.[32] Without a clear property interest and the due process protections that accompany it, unemployment compensation is less reliable and cannot perform its special, steadying role in the safety net.

Michaillat & Emmanuel Saez, *A Macroeconomic Approach to Optimal Unemployment Insurance*, 47 Am. Econ. J.: Econ. Pol'y Econ. 156, 162 (2020); Ioana Marinescu, *The General Equilibrium Impacts of Unemployment Insurance: Evidence from a Large Online Job Board*, Nat'l Econ. Rsch. Bureau29 (2016), https://www.nber.org/papers/w22447

[32] *See Conformity Requirements for State UC Laws*, U.S. Dep't of Labor: Emp. & Training Admin. (May 29, 2025), https://oui.doleta.gov/unemploy/conformity.asp#:~:text=The%20UC%20program%20is%20administered%20by%20state,tax%20base%20and%20rate%20*%20Administrative%20requirements.

Due process is particularly paramount for unemployment claimants, who are often unrepresented.[33] Indeed, Michigan has adopted special administrative protections requiring the Administrative Law Judge to "conduct and control the hearing to develop the rights of the parties" and advise unrepresented parties of their rights, aid them in examining and cross-examining witnesses, and "give every assistance to the party compatible with an impartial discharge of the administrative law judge's official duties." Mich. Admin. Code R. 792.11411(1)(10). If a worker is not given pretermination notice, then they may never make it to the hearing stage to receive the benefits of the heightened duty—undermining Michigan's regulatory protection.

Pandemic-era unemployment is intended to stabilize in much the same way and needs the same protection as regular UI. The CARES Act

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[33] Colleen F. Shanahan, *Cultivating Justice for the Working Poor: Clinical Representation of Unemployment Claimants of Unemployment Claimants*, 18 Geo. J. on Pov. L. 401 (2011) (discussing importance of representation).

was passed swiftly with bipartisan cooperation, signed by President Trump and touted as "Emergency relief" because lawmakers saw the need to steady the economy during the pandemic.[34] Federal lawmakers designed PUA with the same due process protections as regular UI. 15 U.S.C. § 9021(h); 20 C.F.R. § 625.15; 625.10(e)(2). Indeed, the Code explains, "[T]he right of individuals to [PUA benefits] shall be protected in the same manner and to the same extent as the rights of persons to regular unemployment compensation are protected under the applicable State law." 20 C.F.R. § 625.15.

When it implemented CARES, the U.S. Department of Labor communicated to states that PUA and PEUC were to "operate in tandem with the fundamental eligibility requirements of the Federal-State UI program, [including some] new eligibility requirements" that

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[34] Kelsey Snell, *What's Inside the Senate's $2Trillion Coronavirus Aid Package*, NPR (Mar. 26, 2020), https://www.npr.org/2020/03/26/821457551/whats-inside-the-senate-s-2-trillion-coronavirus-aid-package.

the federal agency provided.[35] All of these actions are with other entitlements, in that it recognized the timely nature of allocating funds and constrained the discretion of states' administration of those benefits. *See Sterling v. Feek*, 150 F.4th 1235, 1249 (9th Cir. 2025) (finding a property interest in PEUC benefits).

In turn, public relations campaigns and announcements used a carrot-and-stick approach to urge Michiganders to rely on pandemic-era unemployment compensation. Some announcements "strongly encouraged" people to apply for unemployment compensation, and others clarified that failure to follow stay-home orders could result in criminal prosecution.[36] Such communications created an especially high

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[35] Unemployment Ins. Program Letter No. 14-20, U.S. Dep't of Labor: Emp. & Training Admin. Advisory Sys. (Apr. 2, 2020), https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2020/UIPL_14-20_acc.pdf.

[36] *See, e.g.*, Mich. Exec. Order No. 2020-21; *Michigan workers affected by COVID-19 provided emergency relief through governor's actions to expand unemployment benefits*, Upper Michigan Source TV 6

reliance interest for workers who opted to follow health precautions by refraining from work because they believed the safety net of supplemental unemployment compensation would be there to catch them.

A. Where it was administered consistently, pandemic-era unemployment compensation had an especially positive impact on workers, their families, and communities.

Pandemic-era unemployment compensation worked as intended for those who received it, helping families stay afloat and narrowing long-standing gaps. Multiple studies, discussed in detail below, show that people who received benefits were much less likely to go hungry, miss bills, fall behind on housing payments, or experience mental

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(Mar. 22, 2020), https://www.uppermichiganssource.com/content/news/Workers-affected-by-COVID-19-provided-emergency-relief-through-governors-actions-to-expand-unemployment-benefits-569011401.html; *Michigan Provides Enforcement Guidance on State's "Stay Home, Stay Safe" Executive Order,* Ogletree Deakins(Apr. 9, 2020), https://ogletree.com/insights-resources/blog-posts/michigan-provides-enforcement-guidance-on-states-stay-home-stay-safe-executive-order/.

health crises than those who applied but did not get compensation.[37] The data tell the story of the vital role this relief played.

Without the pandemic-era unemployment compensation programs authorized by the CARES Act, the Center on Budget and Policy Priorities estimates that about five million more people would have dropped below the poverty line in 2020, and six million more would have fallen below in 2021.[38] Furthermore, "tens of millions of workers not covered by regular UI, especially workers of color, would not have received any benefits, and up to 27,000 more people may have died from

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[37] Nick Gwyn, *Historic Unemployment Programs Provided Vital Support to Workers and the Economy During Pandemic, Offer Roadmap for Future Reform*, Ctr.on Budget and Pol'y Priorities (Mar 24, 2022), https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy; *Applying for and receiving unemployment insurance benefits during the coronavirus pandemic*, U.S. Bureau of Lab. Stat.(Sept. 2021), https://www.bls.gov/opub/mlr/2021/article/applying-for-and-receiving-unemployment-insurance-benefits-during-the-coronavirus-pandemic.htm (hereinafter BLS CARES Report).

[38] Gwyn, *supra* note 37.

COVID-19 in its early months because they needed to work in higher-risk occupations to make ends meet."[39]

Black and Latino workers were among those hit hardest by pandemic layoffs.[40] More Black and Latino workers have lower household wealth because of decades of exclusion from wealth building opportunities,[41] and may have been less able to weather a period of unemployment. But expanding unemployment insurance during the pandemic significantly enhanced racial equity. Drawing on data from the Survey of Consumer Finances, researchers determined that in 2020 only about 10 to 14 percent of Black and Latino families had sufficient

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[39] *Id.*37

[40] Roxanna Edwards, Lawrence Essien & Michael Levinstein, *U.S. labor market shows improvement in 2021, but the COVID-19 pandemic continues to weigh on the economy*, U.S. Bureau of Lab. Stat. (June 2022), https://www.bls.gov/opub/mlr/2022/article/us-labor-market-shows-improvement-in-2021-but-the-covid-19-pandemic-continues-to-weigh-on-the-economy.htm.

[41] *See, e.g.*, Angela Hanks, Christian Weller & Danyelle Solomon, *Systematic Inequality: How America's Structural Racism Helped Create the Black-White Wealth Gap,* Ctr. for Am. Progress(Feb. 21, 2018), https://www.americanprogress.org/article/systematic-inequality/.

savings to cover six months of living expenses if they lost their jobs.[42] At the same time, pandemic-era unemployment compensation powerfully assisted white families: While only 61% of white families could cover six months of expenses using both savings and regular UI benefits, 95% could cover six months of expenses with the support of CARES Act programs.[43]

Using data from the U.S. Census Bureau's Household Pulse Survey (HPS), a study compared households "who had received benefits (at some point during the pandemic) with those who applied for benefits but did not receive them… the well-being measures show substantially

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[42] Testimony of Rebecca Dixon, Nat'l Employment Law Project, Hrg. Before U.S. House of Representatives, Committee on Education and Labor (Sept. 21, 2022), https://www.nelp.org/app/uploads/2022/09/UI-Oversight-Hearing-Testimony-9-21-2022.pdf.

[43] *See* Neil Bhutta, Jacqueline Blair, Lisa Dettling & Kevin Moore, *Covid-19, The CARES Act, and Families' Financial Security*, 73 Nat'l Tax J. 645 (Mar. 2020), https://www.journals.uchicago.edu/doi/10.17310/ntj.2020.3.02.

less distress among UI recipients than among unsuccessful applicants…

." [44] as demonstrated by the following benchmarks:

- **Overall expenses and food security:** Receiving pandemic-era unemployment compensation "reduces the probability of having difficulty with household expenses by 7.8 percentage points and reduces the probability of experiencing food insecurity by 7.5 percentage points. . . . 18.9 percent of UI recipients were experiencing food insecurity, compared with 29.1 percent of unsuccessful applicants."[45]
- **Housing:** Receiving pandemic-era unemployment compensation "reduces the probability of an applicant not being current on mortgage or rent by 5.6 percentage points and reduces the probability of not being confident on paying the upcoming mortgage or rent payment by 5.8 percentage points."[46]
- **Mental health:** Receiving pandemic-era unemployment compensation "reduces the probability of an applicant having symptoms of anxiety by 7.2 percentage points and reduces the probability of having symptoms of depression by 7.5 percentage points."[47]

As Amici witnessed in the lives of those they serve, pandemic-era unemployment compensation such as PUA fulfilled its purpose when

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[44] *See* BLS CARES Report, *supra* note 37.
[45] *Id.*
[46] *Id.*
[47] *Id.*

delivered as designed. It helped families keep their finances afloat and reduce long-standing inequalities. Many people were kept out of poverty, and many lives were saved by pandemic-era unemployment.

B. Lack of predictability in unemployment compensation has a domino effect on other aspects of financial wellbeing.

When workers are unable to achieve stable income, income loss can set off a cascading series of harms that extend far beyond a household's immediate finances. Because rent, utilities, transportation, and food expenses are largely fixed in the short term, even a brief interruption in benefits can force families into excruciating choices as they attempt to prioritize among their household needs.

The delays and abrupt course changes described in this litigation are emblematic of the type of instability that unemployment recipients cannot afford. Plaintiffs-Appellants described some instances when UIA found certain claimants eligible for payments, but failed to make them, and did not provide adequate procedures by which claimants could challenge non-payment. *Kreps v. Mich. Unemployment Ins. Agency*, No. 22-12020, 2023 LX 47955, at *7 (E.D. Mich. July 12, 2023). Worse yet,

Plaintiffs-Appellants alleged the UIA issued redeterminations finding previous recipients ineligible and stopped payments abruptly, sometimes collecting from those workers, without waiting for a final determination of ineligibility or providing reliable procedures for challenging ineligibility. *Id.* Workers who experienced challenges like those described by Plaintiffs-Appellants reported using their entire savings (if they had any to begin with) just to continue meeting fixed expenses when the very tool meant to steady their finances, i.e., pandemic-era unemployment compensation, created further chaos for them.[48]

When households must decide whether to pay rent or fill prescriptions, keep the lights on, or buy groceries, they often fall behind on one or more critical obligations. That initial shortfall then

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[48] *Sharing Experiences of Pandemic-Era Unemployment*, Michigan Poverty Law Program (2025), https://mplp.org/sites/default/files/2025-12/sharing-experiences-of-pandemic-era-unemployment.pdf (Herinafter "Experiences of Pandemic-Era Unemployment").

compounds, triggering late fees, overdraft charges, penalties, and collection actions that rapidly exacerbate the original shortfall. Thus, what begins as the loss of a single income stream quickly destabilizes multiple aspects of a family's life.[49]

Housing is often the first area in which this destabilization becomes visible. Clients of Michigan's legal aid agencies reported that supplemental unemployment compensation disruptions during the pandemic caused them to live on the street or in their cars amidst stay-at-home orders when they were unable to pay rent.[50] Missed or partial rent payments can lead to eviction filings, threats of displacement, or the need to accept unsafe or overcrowded housing. Even where formal eviction is avoided, as was the case for some leaseholders who were protected from eviction during the pandemic-related eviction

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[49] *See, e.g.*, *The State of ALICE in Michigan: 2025 Update on Financial Hardship*, United Way, at 12, https://www.uwmich.org/alice-report.

[50] *Id.*

moratorium or diversion, tenants may incur rent arrears they cannot realistically repay, leaving them in a constant state of insecurity and at heightened risk of future homelessness. Once a person has an eviction record or a history of arrears, it becomes significantly harder to secure new housing.[51]

This loss of stable housing, in turn, can jeopardize employment prospects (by making transportation more difficult, disrupting childcare arrangements, or forcing frequent moves) and can upend children's schooling, undermining both short-term wellbeing and long-term opportunities for an entire family. Survivors of domestic violence may be forced to stay or return to unsafe partners to remain housed.[52]

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[51] *Research shows far-reaching costs of eviction filings to tenants—regardless of the outcome in court*, Mich. Pub. Health News Ctr. (July 16, 2024), https://sph.umich.edu/news/2024posts/research-shows-far-reaching-costs-of-eviction-filings-to-tenants-regardless-of-the-outcome-in-court.html.

[52] *See, e.g.*, Leila Wood et al., *Don't Know where to Go for Help": Safety and Economic Needs among Violence Survivors during the*

Credit and financial standing also deteriorate quickly when benefits are interrupted. Clients of Michigan's legal aid agencies reported that delays and errors in pandemic-era unemployment compensation prompted loss of cell phone access, which, among many other serious life impacts, made it impossible for them to contact the UIA and keep up with the process of their case.[53] Recipients also reported overdraft and late fees, making it even more difficult to climb out of debt.[54] Late or missed payments on credit cards, auto loans, medical bills, or student loans lead to collections and unfavorable credit reports. In turn, a damaged credit score increases the cost of future borrowing and can limit access to safe financial products, pushing

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COVID-19 Pandemic, J. Fam Violence (Jan. 4, 2021) https://pmc.ncbi.nlm.nih.gov/articles/PMC7780076/; Cynthia Hess & Alona Del Rosario, *Dreams Deferred: A Survey on the Impact of Intimate Partner Violence on Survivors' Education, Careers, & Economic Stability*, Inst. Women's Policy Research, at 33 (2018), https://iwpr.org/wp-content/uploads/2020/09/C475_IWPR-Report-Dreams-Deferred.pdf.

[53] *Id.* (Explaining that one individual had to sleep behind a church and use the pastor's phone to contact his lawyer.)

[54] *Id.*

families toward high-cost alternatives such as payday or auto-title loans, which have well-documented negative impacts.[55] Some employers and most landlords also consider credit history when making hiring or rental decisions, meaning that the initial loss of income can compromise employment and housing opportunities in the future, even after a person regains work.[56] In this way, a temporary interruption in benefits can leave a long-lasting imprint on a person's economic mobility.

Older workers may experience vulnerabilities and consequences of income lapses due to lack of alternative job opportunities. During the pandemic, many older employees who lacked pension benefits felt they had no alternative but to file for Social Security.[57] Unfortunately,

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[55] C*onsumer use of payday, auto title, and pawn loans: Insights from the Making Ends Meet Survey*, Consumer Fin. Prot. Bureau (May 2021), https://files.consumerfinance.gov/f/documents/cfpb_consumer-use-of-payday-auto_title-pawn_loans_research-brief_2021-05.pdf.

[56] *Research examines impact of credit screening on employment*, Harvard Kennedy Sch., https://www.hks.harvard.edu/faculty-research/policy-topics/business-regulation/research-examines-impact-credit-screening.

[57] Experiences of Pandemic-Era Unemployment, *supra*, note 48.

claiming Social Security early results in reduced monthly payments and a permanent financial disadvantage.[58] Many other older workers in Michigan were forced to draw on retirement benefits earlier than anticipated.[59]

It is hard to overstate the resulting impacts on mental and physical health of the compounding effects of income lapses on unemployed workers and their families. Financial stress and housing instability are strongly associated with increased anxiety, depression, and other mental health challenges.[60] Indeed, one Michigan attorney reported that a client had to be hospitalized for severe depression after losing her housing due to these gaps—and while she was hospitalized, care arrangements had to be made for her children.[61] Physical health

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[58] *Id.*

[59] *Id.*

[60] Soomin Ryu & Lu Fan, *The Relationship Between Financial Worries and Psychological Distress Among U.S. Adults*, 44 J. of Fam. Econ. Issues 16 (2023), https://pmc.ncbi.nlm.nih.gov/articles/PMC8806009/.

[61] Experiences of Pandemic-Era Unemployment, supra, note 48.

impacts also result both directly and indirectly from lapses in income during unemployment compensation delays. Michigan workers reported having to be hospitalized for cardiovascular symptoms due to the stress of non-payment.[62] Lapses in payment also result in exacerbated chronic physical conditions when individuals skip appointments, ration medications, or forego preventive care to save money. Food insecurity rises when families lack steady income, leading to reduced dietary quality and, in some cases, outright hunger.

The bottom line is that delays and deprivations of unemployment compensation impact much more than a family's bottom line. Shortfalls snowball and permanently harm financial, educational, health, and social outcomes. The resulting stress and instability similarly spiral into harms that can persist even after income is restored. Michigan's legislature explained it well when adopting the unemployment compensation system. "Economic insecurity due to unemployment . . . .

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[62] *Id.*

so often falls with crushing force upon the unemployed worker and his or her family . . . ."[63] This is why keeping all unemployment compensation predictable is critically important to fulfilling the legislative purpose.

C. Facing economic instability during a pandemic can cause grave health consequences.

Pandemic-era unemployment compensation was an especially critical public-health tool for workers whose age, disability, or underlying medical conditions placed them at heightened risk of severe illness or death from COVID-19. A study from the Federal Reserve Bank of Atlanta estimated that CARES Act expansions, especially PEUC and PUA, reduced infections among workers in high-contact occupations, cutting overall pandemic-driven deaths by almost 5% and

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[63] Mich. Comp. Laws § 421.2.

saving an estimated 27,000 lives from April to December 2020.[64] The Centers for Disease Control and Prevention (CDC) consistently advised that people at higher risk—such as older adults, people with chronic lung disease, heart conditions, cancer, diabetes, or who are immunocompromised—should "limit your interactions with other people as much as possible" and "stay home as much as possible" to reduce exposure at work and in the community.[65] The availability of unemployment benefits, including pandemic expansions, allowed many

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[64] Lei Fang, Jun Nie & Zoe Xie, *The CARES Act Unemployment Insurance Program during the COVID-19 Pandemic*, Fed. Rsrv. Bank of Atlanta (Dec. 2020), https://www.atlantafed.org/-/media/documents/research/publications/policy-hub/2020/12/21/16-cares-act-unemployment-insurance-program-during-covid-19-pandemic.pdf.

[65] *See* People with Certain Medical Conditions, U.S. Ctrs. for Disease Control & Prevention, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html (last updated May 2, 2023).

at-risk workers to follow this guidance and avoid job settings that were incompatible with necessary infection-control measures.[66]

By contrast, where unemployment benefits were delayed, unpredictably administered, or wrongly denied, at-risk workers were effectively forced into an untenable choice between health and subsistence. For low-wage workers and workers of color—who are overrepresented both in front-line jobs and in the population with high-risk health conditions—the lack of reliable unemployment compensation magnified coercive pressure to accept unsafe work even when public-health guidance counseled isolation.

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[66] *See Robust COVID Relief Achieved Historic Gains Against Poverty and Hardship, Bolstered Economy*, Ctr. for Budget & Pol'y Priorities (Feb. 24, 2022), https://www.cbpp.org/research/poverty-and-inequality/robust-covid-relief-achieved-historic-gains-against-poverty-and.

Conclusion

To ensure that supplemental unemployment compensation can play the stabilizing role it is intended to, Amici respectfully request that this honorable Court reverse the District Court's decision.

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Certificate of Compliance

Pursuant to Federal Rule of Appellate Procedure 32(g) and Sixth Circuit Rule 32, I certify that this brief complies with the applicable type-volume limitations. This brief has been prepared in a proportionally spaced typeface using Microsoft Word in Century 14-point font. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), it contains 6,102 words, as counted by the word-count feature of Microsoft Word.

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Certificate of Service

I hereby certify that on February 5, 2026, I electronically filed the foregoing Petitioners' Status Report with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by means of the appellate CM/ECF system, which will cause a Notice of Electronic Filing (NEF) to be delivered by e-mail to all counsel of record:

Feb. 5, 2026

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