

**STATE OF CALIFORNIA - GOVERNOR EDMOND G. BROWN JR.
LABOR AND WORKFORCE DEVELOPMENT AGENCY**
**CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
EXECUTIVE DIRECTOR/CHIEF ADMINISTRATIVE LAW JUDGE**

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September 9, 2011

To: Board Members

**September 2011 Summary Report of Executive Director and
Chief Administrative Law Judge Alberto Roldan**

1. Office of the Chief

- Administrative Law Judge Marvin Hassan of the Orange County Office of Appeals began as the Presiding Administrative Law Judge Position (PALJ) in the Oakland Office of Appeals on September 12, 2011.
- The recruitment for a PALJ to head the Federal Standards Compliance position will close on September 21, 2011.

2. Snapshot of Field Operations through August 2011

Overall August 2011 Workload and Performance: August made up for the slowness in July 2011 that I previously reported. The volume of new cases in all categories [40,374] was the greatest since March 2011 and 5% greater than the average for this year. At the same time, the number of cases *en route* from EDD rose to over 14,000 and represents the most unverified appeals since January 2011. This is a matter of some concern because the United States Department of Labor announced that the number of new unemployment insurance (UI) claims rose last week. Closed cases [39,116] were slightly below the monthly average. Our open inventory [61,211] remains almost exactly where it was at the end of June 2011. Counting the increased number of unverified appeals, the reality is that our backlog has grown slightly. I have coordinated with each office's PALJs to coordinate a major push in September 2011, so I expect that some of this new backlog will be eliminated.

Case Aging and Time Lapse: Average case age fell to 33 days, which is the best result since May 2007. At the same time, the 90-day time lapse guideline was met for the 2nd straight month, after three years of missing that target. The 45-day and 30-day numbers have remained relatively consistent for several months.

Unemployment Insurance (UI) for August: New UI cases [38,079 cases; 21,743 appellants] were 5% greater than average and the most since March. Closed cases [36,979 cases; 21,115 appellants] were just below average. The open inventory [50,755 cases; 28,981 appellants] rose back over 50,000, but is slightly smaller than was true two months ago.

DI. Disability Insurance (DI) for August: In DI, new cases [1,575] were 4% above the monthly average and the greatest number of new cases since April. There were fewer closed cases [1,462] than new cases for the second straight month, and the open inventory [2,054 cases] went above 2000 for the first time in three months.

Tax, Rulings, Other for August: The number of new ruling cases [431] exceeded closed cases [381] for the fourth time in five months, and the difference would have been greater except that we have held back verifying some rulings to concentrate on the UI and DI cases. Despite this trend, which occurs every late spring and summer, the open inventory [3,736] is right at the average for the year. After a slow July, there was a great deal of activity in tax cases. New petitions [266] were 51% higher than average, and the most since October 2009. Closed cases [278] were 34% above the norm, and the most since December 2009. This was the eighth time in nine months in which the inventory was reduced. During that time period, the open inventory [4,630] has fallen by 5%, which is remarkable in light of the stubbornly high number of UI cases that we continue to have.

ALL PROGRAM TRENDS - FO

NEW OPENED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL	Avg.	% Change	Yr-Yr AvgChg
2008	25,938	23,093	27,702	31,537	27,015	26,199	27,234	27,027	32,412	33,831	30,926	31,245	344,159	28,680		
2009	34,115	30,306	33,645	34,018	34,720	36,687	34,412	33,610	35,623	38,035	29,542	39,222	413,935	34,495	120%	5,815
2010	39,381	36,310	40,820	45,037	39,399	38,140	41,563	43,324	33,493	37,396	31,757	37,369	463,989	38,666	112%	4,171
2011	40,411	36,315	41,141	38,210	38,185	37,903	34,470	40,374					307,009	38,376	99%	-290
														2010	99%	95%
														2009	111%	113%
														2008	134%	142%
															chg to '11 avg	chg to '11 YTD

Registrations Aug to date are down 5% from 2010, up 13% from 2009, and up 42% from 2008
 Registration monthly average is down 1% from 2010, up 11% from 2009, and up 34% from 2008

CLOSED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL	Avg.	% Change	Yr-Yr AvgChg
2008	22,962	24,939	31,377	27,534	29,082	26,725	26,640	21,783	26,305	29,943	23,055	27,989	318,334	26,528		
2009	27,273	26,451	30,253	32,388	31,481	34,471	36,722	32,474	34,290	41,893	36,461	38,969	403,126	33,594	127%	7,066
2010	34,404	40,009	46,641	42,106	37,589	39,101	37,848	41,243	40,987	39,872	36,622	38,452	474,874	39,573	118%	5,979
2011	35,905	40,146	52,970	37,208	34,144	40,592	35,714	39,116					315,795	39,474	100%	-98
														2010	100%	99%
														2009	118%	126%
														2008	149%	150%
															chg to '11 avg	chg to '11 YTD

Dispositions Aug to date are down 1% from 2010, up 26% from 2009, and up 50% from 2008
 Disposition monthly average is even with 2010, up 18% from 2009, and up 49% from 2008

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Avg.	% Change	Yr-Yr AvgChg	
2008	50,735	48,851	45,085	48,985	46,870	46,297	46,811	51,973	58,005	61,773	69,574	72,712	53,973			
2009	79,459	83,239	86,674	88,675	91,984	94,025	91,932	93,231	94,499	90,583	83,671	83,874	88,487	164%	34,515	
2010	88,772	84,920	78,808	81,554	83,171	81,997	85,167	86,889	79,186	76,869	71,857	70,783	80,831	91%	-7,656	
2011	75,199	71,225	59,203	60,086	64,024	61,203	60,107	61,211					64,032	79%	-16,799	
														2010	79%	76%
														2009	72%	72%
														2008	119%	133%
															chg to '11 avg	chg to '11 YTD

Open Balance Aug to date is down 24% from 2010, down 28% from 2009, and up 33% from 2008
 Open Balance monthly average is down 21% from 2010, down 28% from 2009, and up 19% from 2008

DI TRENDS - FO
Program Codes 7, 10, 11, 12, 16 & 20

NEW OPENED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	1,481	1,470	1,661	1,887	1,534	1,540	1,615	1,333	1,697	1,640	1,317	1,522	18,697	1,558		
2009	1,610	1,107	1,794	1,519	1,628	1,748	1,537	1,321	1,571	1,414	1,245	1,330	17,824	1,485	95%	-73
2010	1,446	1,437	1,775	1,957	1,371	1,232	1,763	1,609	1,366	1,372	1,159	1,414	17,901	1,492	100%	6
2011	1,537	1,651	1,411	1,691	1,360	1,428	1,405	1,575					12,058	1,507	101%	16
DI registrations Aug to date are down 4% from 2010, down 2% from 2009, and down 4% from 2008													2010	101%	96%	
DI registration monthly average is up 1% from 2010, up 1% from 2009, and down 3% from 2008													2009	101%	98%	
													2008	97%	96%	
													chg to '11 avg		chg to '11 YTD	

CLOSED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	1,579	1,477	1,506	1,368	1,884	1,720	1,601	1,385	1,579	1,920	1,049	1,277	18,345	1,529		
2009	1,217	1,269	1,451	1,465	1,129	1,463	1,823	1,644	1,648	1,753	1,527	1,701	18,090	1,508	99%	-21
2010	1,283	1,557	1,967	1,852	1,276	1,581	1,494	1,511	1,581	1,552	1,372	1,565	18,591	1,549	103%	42
2011	1,295	1,576	1,925	1,512	1,441	1,567	1,365	1,462					12,143	1,518	98%	-31
DI dispositions Aug to date are down 3% from 2010, up 6% from 2009, and down 3% from 2008													2010	98%	97%	
DI disposition monthly average is down 2% from 2010, up 1% from 2009, and down 1% from 2008													2009	101%	106%	
													2008	99%	97%	
													chg to '11 avg		chg to '11 YTD	

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg	
2008	2,590	2,586	2,738	3,257	2,907	2,728	2,742	2,692	2,810	2,525	2,790	3,034	2,783			
2009	3,426	3,264	3,613	3,684	4,197	4,478	4,204	3,895	3,819	3,476	3,203	2,836	3,675	132%	891	
2010	2,997	2,876	2,682	2,789	2,891	2,541	2,808	2,908	2,691	2,513	2,299	2,148	2,679	73%	-996	
2011	2,390	2,465	1,951	2,126	2,046	1,905	1,943	2,054					2,110	79%	-569	
Open Balance DI Aug to date is down 25% from 2010, down 45% from 2009, and down 24% from 2008													2010	79%	75%	
Open Balance monthly average down 21% from 2010, down 43% from 2009, and down 24% from 2008													2009	57%	55%	
													2008	76%	76%	
													chg to '11 avg		chg to '11 YTD	

RULING - OTHER TRENDS - FO
 Program Codes 9, 13, 14, 19, 21, 22, 40, 44

NEW OPENED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	221	364	396	475	530	286	516	621	616	184	94	138	4,441	370		
2009	175	92	203	456	567	340	304	206	170	710	923	275	4,421	368	100%	-2
2010	486	609	709	598	441	424	468	1,359	201	239	229	214	5,977	498	135%	130
2011	64	97	92	739	526	510	426	454					2,908	364	73%	-135

Other registrations Aug to date are down 43% from 2010, up 24% from 2009, and down 15% from 2008

Other registration monthly average is down 27% from 2010, down 1% from 2009, and down 2% from 2008

CLOSED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	296	412	199	189	347	397	426	329	342	460	332	142	3,871	323		
2009	236	333	238	209	179	208	273	264	315	192	260	357	3,064	255	79%	-67
2010	335	392	500	682	465	716	421	631	484	804	303	415	6,148	512	201%	257
2011	442	399	728	390	424	631	384	397					3,795	474	93%	-38

Other dispositions Aug to date are down 8% from 2010, up 96% from 2009, and up 46% from 2008

Other disposition monthly average is down 7% from 2010, up 86% from 2009, and up 47% from 2008

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	2,804	2,761	2,957	3,244	3,430	3,320	3,411	3,701	3,975	3,700	3,465	3,461	33,352	3,352		
2009	3,399	3,158	3,123	3,374	3,763	3,894	3,925	3,860	3,715	4,232	4,896	4,809	38,846	3,846	115%	493
2010	4,965	5,182	5,394	5,312	5,287	4,996	5,048	5,781	5,494	4,931	4,857	4,658	51,159	5,159	134%	1,313
2011	4,281	3,977	3,340	3,692	3,792	3,672	3,716	3,772					37,780	3,780	73%	-1,379

Other balance of open cases Aug to date is down 28% from 2010, up 6% from 2009, and up 18% from 2008

Other balance monthly average is down 27% from 2010, down 2% from 2009, and up 13% from 2008

TAX TRENDS - FO
Program Codes 15, 17, 18, 32

NEW OPENED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	187	277	202	191	183	281	199	171	201	303	170	254	2,619	218		
2009	166	93	219	174	258	164	252	256	169	292	224	229	2,496	208	95%	-10
2010	142	139	164	233	140	163	94	137	146	181	188	232	1,959	163	78%	-45
2011	134	168	144	261	140	180	112	266					1,405	176	108%	12
													2010	108%	116%	
													2009	84%	89%	
													2008	80%	83%	
														chg to '11 avg	chg to '11 YTD	

Tax registrations Aug to date are up 16% from 2010, down 11% from 2009, and down 17% from 2008

Tax registrations monthly average is up 8% from 2010, down 16% from 2009, and down 20% from 2008

CLOSED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	82	147	117	78	414	145	174	139	118	167	68	87	1,736	145		
2009	92	97	172	149	72	97	126	111	162	70	149	288	1,585	132	91%	-13
2010	48	109	107	91	117	124	135	101	174	130	99	235	1,470	123	93%	-10
2011	139	173	193	252	176	277	168	278					1,656	207	169%	85
													2010	169%	199%	
													2009	157%	181%	
													2008	143%	128%	
														chg to '11 avg	chg to '11 YTD	

Tax dispositions Aug to date are up 99% from 2010, up 81% from 2009, and up 28% from 2008

Tax disposition monthly average is up 69% from 2010, up 57% from 2009, and up 43% from 2008

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	2,739	2,869	2,953	3,066	2,833	2,969	2,994	3,026	3,109	3,243	3,344	3,511	3,055		
2009	3,585	3,580	3,627	3,649	3,836	3,903	4,029	4,174	4,180	4,402	4,477	4,416	3,988	131%	934
2010	4,509	4,539	4,596	4,738	4,759	4,796	4,754	4,790	4,758	4,801	4,890	4,885	4,735	119%	746
2011	4,880	4,874	4,824	4,833	4,797	4,700	4,643	4,630					4,773	101%	38
													2010	101%	102%
													2009	120%	126%
													2008	156%	163%
														chg to '11 avg	chg to '11 YTD

Tax balance of open cases Aug to date is up 2% from 2010, up 26% from 2009, and up 63% from 2008

Tax balance monthly average up 1% from 2010, up 20% from 2009, and up 56% from 2008

UI TRENDS - FO
Program Codes 1, 2, 3, 4, 5, 6, 8, 23, 24, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 41, 42

NEW OPENED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	24,049	20,982	25,443	28,984	24,768	24,092	24,904	24,902	29,898	31,704	29,345	29,331	318,402	26,534		
2009	32,164	29,014	31,429	31,869	32,267	34,435	32,319	31,827	33,713	35,619	27,150	37,388	389,194	32,433	122%	5,899
2010	37,307	34,125	38,172	42,249	37,447	36,321	39,238	40,219	31,780	35,604	30,181	35,509	438,152	36,513	113%	4,080
2011	38,676	34,399	39,494	35,519	36,159	35,785	32,527	38,079					290,638	36,330	99%	-183
													2010	99%	95%	
													2009	112%	114%	
													2008	137%	147%	
														chg to '11 avg	chg to '11 YTD	

UI registrations Aug to date are down 5% from 2010, up 14% from 2009, and up 47% from 2008
UI registration monthly average is down 1% from 2010, up 12% from 2009, and up 37% from 2008

CLOSED CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2008	21,005	22,903	29,555	25,899	26,437	24,463	24,439	19,930	24,266	27,396	21,606	26,483	294,382	24,532		
2009	25,728	24,752	28,392	30,565	30,101	32,703	34,500	30,455	32,165	39,878	34,525	36,623	380,387	31,699	129%	7,167
2010	32,738	37,951	44,067	39,481	35,731	36,680	35,798	39,000	38,748	37,386	34,848	36,237	448,665	37,389	118%	5,690
2011	34,029	37,998	50,124	35,054	32,103	38,117	33,797	36,979					298,201	37,275	100%	-114
													2010	100%	99%	
													2009	118%	126%	
													2008	152%	153%	
														chg to '11 avg	chg to '11 YTD	

UI dispositions Aug to date are down 1% from 2010, up 26% from 2009, and up 53% from 2008
UI disposition monthly average is even with 2010, up 18% from 2009, and up 52% from 2008

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg	
2008	42,602	40,635	36,437	39,418	37,700	37,280	37,664	42,554	48,111	52,305	59,975	62,706	44,782			
2009	69,049	73,237	76,311	77,968	80,188	81,750	79,774	81,302	82,785	78,473	71,095	71,813	76,979	172%	32,197	
2010	76,301	72,323	66,136	68,715	70,234	69,664	72,557	73,410	66,243	64,624	59,811	59,075	68,258	89%	-8,721	
2011	63,632	59,909	49,088	49,435	53,389	50,926	49,805	50,755					53,367	78%	-14,890	
													2010	78%	75%	
													2009	69%	69%	
													2008	119%	136%	
														chg to '11 avg	chg to '11 YTD	

UI balance of open cases Aug to date is down 25% from 2010, down 31% from 2009, and up 36% from 2008
UI balance monthly average down 22% from 2010, down 31% from 2009, and up 19% from 2008

STATEWIDE	2011												Average	STATEWIDE									
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		% of Avg.	Total	Appellants Current Mo.	Appellants Average	Total					
WORKLOAD																							
New Opened Cases																							
UI TL	38,676	34,399	39,494	35,519	36,159	35,785	32,527	38,079										36,330	105%	290,638	21,743	20,744	165,954
DI	1,537	1,651	1,411	1,691	1,360	1,428	1,405	1,575										1,507	104%	12,058			
Ruling & T-R	46	64	61	693	504	492	411	431										338	128%	2,702			
Tax	134	168	144	261	140	180	112	266										176	151%	1,405			
Other	18	33	31	46	22	18	15	23										26	89%	206			
Total	40,411	36,315	41,141	38,210	38,185	37,903	34,470	40,374	0	0	0	0	0	0	0	0	38,376	105%	307,009				
Multi Cases	47	26	7	6	4	6																	
Closed Cases																							
UI TL	34,029	37,998	50,124	35,054	32,103	38,117	33,797	36,979										37,275	99%	298,201	21,115	21,284	170,273
DI	1,295	1,576	1,925	1,512	1,441	1,567	1,365	1,462										1,518	96%	12,143			
Ruling & T-R	413	380	693	361	385	596	367	381										447	85%	3,576			
Tax	139	173	193	252	176	277	168	278										207	134%	1,656			
Other	29	19	35	29	39	35	17	16										27	58%	219			
Total	35,905	40,146	52,970	37,208	34,144	40,592	35,714	39,116	0	0	0	0	0	0	0	0	39,474	99%	315,795				
Multi Cases/mt	4/16	4/15	15/46	2/4	1/2																		
Balance - Open Cases																							
UI TL	63,632	59,909	49,088	49,435	53,389	50,926	49,805	50,755										53,367	95%		28,981	30,473	
DI	2,390	2,465	1,951	2,126	2,046	1,905	1,943	2,054										2,110	97%				
Ruling & T-R	4,243	3,926	3,293	3,627	3,744	3,641	3,686	3,736										3,737	100%				
Tax	4,880	4,874	4,824	4,833	4,797	4,700	4,643	4,630										4,773	97%				
Other	38	51	47	65	48	31	30	36										43	83%				
Total	75,183	71,225	59,203	60,086	64,024	61,203	60,107	61,211	0	0	0	0	0	0	0	0	64,030	96%					
Multi Cases	16	60	75	52	12	8	2	8															
Time Lapse																							
30 TL %	3	3	3	4	4	3	3	4										3	119%				
45 TL %	12	16	22	31	27	28	26	27										24	114%				
90 TL %	76	73	82	93	94	94	95	95										88	108%				
CASE AGE																							
Average Days	UI (mean)	47	44	35	35	36	34	36	33	33								38	88%				
Average Days	UI (median)	42	39	31	32	32	30	33	30	30								34	89%				
>90 Days Old	UI	10%	8%	3%	2%	2%	2%	2%	2%	2%								4%	52%				
>90 Days Old	Without Multi	10%	8%	3%	2%	2%	2%	2%	2%	2%								4%	52%				
>90 Days Old	DI	16%	15%	9%	4%	5%	5%	4%	4%	4%								8%	52%				
PY USAGE	ALJ	200.65	203.05	205.98	208.37	172.56	189.30	185.80										195.1	95%				
Field Offices	Non ALJ	204.29	212.42	210.84	206.05	192.48	204.30	192.15										203.2	95%				
	Net Pys	404.94	415.47	416.82	414.42	365.04	393.60	377.95										398.3	95%				
	Ratio 1 /	1.02	1.05	1.02	0.99	1.12	1.08	1.03										1.04	99%				
w/FOHQ&RSU	ALJ	206.94	209.87	212.58	214.72	176.92	196.31	191.73										201.3	95%				
SS w/EDD	Non ALJ	240.63	255.64	252.48	248.00	229.26	240.96	223.49										241.5	93%				
EDD 0	Net Pys	447.57	465.51	465.06	462.72	406.18	437.27	415.22										442.8	94%				
	Ratio 1 /	1.16	1.22	1.19	1.15	1.30	1.23	1.17										1.20	97%				
PRODUCTIVITY																							
Weekly Dispos per ALJ (UI&DI)	42.7	49.6	55.6	40.5	45.1	45.9	45.8											46.5	99%				
Weekly Dispos per ALJ	43.4	50.3	56.6	41.3	46.0	47.0	46.6											47.3	98%				
Weekly Dispos (Non-ALJ)	37.3	41.3	47.7	35.7	35.5	38.3	40.0											39.4	101%				

AO REPORT TO BOARD—MONTH OF AUGUST 2011

	# Cases	# Appellants	Calendar Yr Ave
REGISTRATIONS	3,267	1,873	7% above
DISPOSITIONS	2,860	1,672	4% above
OPEN BALANCE	6,423	4,143 (est.)	23% above
PENDING REG (8/1/11)	1511		
CASE AGING	48 Days	DID NOT MET DOL STANDARD (40 days or less)	

TIME LAPSE

DOL Standard	Actual % for August 2011	Expected
45 Days	11%	50%
75 Days	40%	80%
150 Days	99%	95%

APPEAL RATE: 9.1 %

ADDITIONAL INFORMATION

FO to AO Monthly Report-4.19 days Statewide Average

Precedent Decision Committee

AO Annual Telecommuting Report

**California Unemployment Insurance Appeals Board
Board Appeal Summary Report**

	August, 2011	July, 2011	June, 2011	May, 2011
	Average Days in Transfer			
	Case Count	Case Count	Case Count	Case Count
Fresno	2.79	4.14	4.07	3.48
Inglewood	4.18	5.59	7.93	5.21
Inland	4.71	6.35	8.02	7.13
Los Angeles	3.70	4.02	4.08	3.36
Oakland	3.06	6.57	7.89	6.06
Orange County	2.96	3.59	3.29	4.45
Oxnard	3.84	4.37	4.84	4.52
Pasadena	6.31	6.71	7.03	6.95
Sacramento	4.66	4.70	5.54	4.63
San Diego	6.31	11.18	9.28	7.89
San Francisco	3.68	2.89	3.83	4.02
San Jose	4.76	5.53	4.57	5.51
Tax Office	5.57	5.04	3.50	4.17
Total	4.19	5.46	6.05	5.26

APPELLATE OPERATIONS ~ REPORT SUMMARY

2014

APPELLATE	Jan	Feb	March	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Average	AO Current Mo. % of Avg.
TIME LAPSE														
45 Day-50 %	29	11	13	5	7	5	10	11					11	94%
75 Day- 80 %	89	88	90	89	88	61	44	40					74	54%
150 Day- 95 %	100	100	100	100	99	99	97	99					99	100%
CASE AGE														
Avg Days-UI (mean)	38	36	34	39	45	43	47	48					41	116%
Avg Days-UI (median)	34	34	31	38	46	41	45	44					39	112%
Over 120 days old														
UI Cases	12	10	2	27	50	48	31	39					27	142%
UI %	0%	0%	0%	1%	1%	1%	1%	1%					1%	160%
UI % w/out Malis	0%	0%	0%	1%	1%	1%	1%	1%					1%	160%
NET PY'S USED														
ALJ	18.61	17.18	17.93	17.39	15.42	18.13							17.4	104%
AO Non ALJ	25.12	31.70	33.49	34.20	31.39	33.89							31.6	107%
CTU Non ALJ	5.46	5.36	5.40	5.12	4.89	5.36							5.3	102%
Net PYs	49.19	54.24	56.82	56.71	51.70	57.38	0.00	0.00	0.00	0.00	0.00	0.00	54.3	106%
RATIOS														
AO w/o transcribers	1.35	1.85	1.87	1.97	2.04	1.87							1.81	103%
AO with transcribers	1.64	2.16	2.17	2.26	2.35	2.16							2.12	102%
TRANSCRIPTS														
PAGES	134	92	143	102	164	163	124	106					129	82%
AVG PGS Per T/S	9,784	6,637	10,433	7,124	11,504	10,878	9,492	7,593					9,181	83%
	73	72	73	70	70	67	77	72					72	100%
PRODUCTIVITY														
ALL Dispmk	34.9	40.2	32.7	34.9	46.2	43.2							38.7	112%
Trans Pgs/day	89.60	65.17	87.82	66.26	112.03	92.25							85.5	108%

Board Member	1st	2nd	3rd	UI	DI	Ruling	Tax	1 Party	2 Party	Total
Alberto Torrico										
Sum	280	304	6	549	34	1	6	242	348	590
Percent	17%	18%	14%	18%	17%	17%	18%	18%	17%	
Bonnie Garcia										
Sum	226	218	4	420	22	2	4	172	276	448
Percent	14%	13%	9%	14%	11%	33%	12%	13%	14%	
Denise Ducheny										
Sum	287	268	5	519	35	0	6	219	341	560
Percent	17%	16%	11%	17%	18%	0%	18%	16%	17%	
Dennis Hollingsworth										
Sum	273	297	5	537	32	1	5	223	352	575
Percent	17%	18%	11%	17%	16%	17%	15%	17%	18%	
George Plescia										
Sum	181	176	2	340	18	0	1	150	209	359*
Percent	11%	11%	5%	11%	9%	0%	3%	11%	10%	
Robert Dresser										
Sum	115	88	19	203	16	2	2	82	141	223
Percent	7%	5%	43%	7%	8%	33%	6%	6%	7%	
Roy Ashburn										
Sum	283	298	3	536	40	0	9	255	330	585
Percent	17%	18%	7%	17%	20%	0%	27%	19%	17%	
Total Cases Reviewed:	1645	1649	44	3104	197	6	33	1343	1997	

*Off Calendar

Monthly Board Meeting Litigation Report - August 2011

AGENDA ITEM 9

<u>LITIGATION CASES PENDING</u>	TOTAL = 288
SUPERIOR COURT: Claimant Petitions.....	239
Employer Petitions.....	25
EDD Petitions.....	3
Non-benefit Court Cases	7
APPELLATE COURT: Claimant Appeals.....	9
Employer Appeals.....	3
EDD Appeals.....	0
Non-benefit Court Cases	1
ISSUES: UI.....	249
DI.....	16
Tax.....	14
Non-benefit Court Cases	9

2011 CALENDAR YEAR ACTIVITY - Benefit & Tax Cases

<u>LITIGATION CASES FILED</u>	<u>YTD</u>	<u>August</u>
SUPERIOR COURT: Claimant Petitions.....	93	9
Employer Petitions.....	6	1
EDD Petitions.....	0	0
APPELLATE COURT: Claimant Appeals.....	5	0
Employer Appeals.....	0	0
EDD Appeals.....	0	0
 <u>LITIGATION CASES CLOSED</u>	 <u>YTD</u>	 <u>August</u>
SUPERIOR COURT: Claimant Petitions.....	52	5
Employer Petitions.....	11	0
EDD Petitions.....	1	0
APPELLATE COURT: Claimant Appeals.....	3	1
Employer Appeals.....	0	0
EDD Appeals.....	0	0

2011 Decision Summary

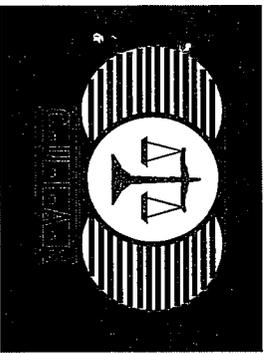
<u>Claimant Appeals</u>		<u>Employer Appeals</u>		<u>CUIAB Decisions</u>	
Win: 13	Loss: 41	Win: 1	Loss: 9	Affirmed: 50	Reversed: 13 Remanded: 2

CUIAB 11/12 Fiscal Year Overtime - SCO Report
 July 2011 through July 2011

Branch	FY Y-T-D Decision Typing		FY Y-T-D CTU Typing		FY Y-T-D Registration		FY Y-T-D Other	
	Hours	Pay	Hours	Pay	Hours	Pay	Hours	Pay
Appellate	80.75	\$2,124.05	234.00	\$6,958.38	200.50	\$5,590.66	176.75	\$4,336.18
Admin	19.50	\$666.58	0.00	\$0.00	0.00	\$0.00	141.00	\$6,066.03
IT	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	254.50	\$10,317.39
Exec	10.00	\$425.22	0.00	\$0.00	47.00	\$1,943.39	0.00	\$0.00
Field	264.50	\$8,296.19	0.00	\$0.00	767.50	\$22,750.83	807.00	\$23,850.92
Total	374.75	\$11,512.04	234.00	\$6,958.38	1,015.00	\$30,284.88	1,379.25	\$44,570.52

11/12 Fiscal Year-to-Date Total Overtime Expenditures						FY 11/12 FY Projections	
Branch	11/12 FY Allocation	Year-to-Date Hours	Year-to-Date Position Equivalent	Year-to-Date Pay	Allocation Balance	Estimated Expenditures Over-/Under	
Appellate	\$52,599.00	692.00	0.33	\$19,009.27	\$33,589.73	-\$175,512.24	
Admin	\$90,306.00	160.50	0.08	\$6,732.61	\$83,573.39	-\$9,514.68	
IT	\$123,050.00	254.50	0.12	\$10,317.39	\$112,732.61	-\$758.68	
Exec	\$21,977.00	57.00	0.03	\$2,368.61	\$19,608.39	-\$6,446.32	
Field Operations	\$864,113.00	1,839.00	0.88	\$54,897.94	\$809,215.06	-\$205,337.72	
Total	1,152,045.00	3,003.00	1.44	\$93,325.82	\$1,058,719.18	-\$32,135.16	
Actual Monthly Average Personnel Year						17.33	

11/12 Fiscal Year-to-Date Lump Sum Payout			
July 2011 through July 2011			
Branch	Year-to-Date Hours	Year-to-Date Position Equivalent	Year-to-Date Pay
Appellate	416.70	0.20	\$10,171.42
Admin	0.00	0.00	\$0.00
IT	0.00	0.00	\$0.00
Exec	0.00	0.00	\$0.00
Field Operations	1,343.00	0.65	\$66,991.78
Total	1,759.70	0.85	\$77,163.20



CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
SPECIAL PROJECTS MATRIX
September 2011

California's economy is globally ranked with approximately 1.0 million business owners and 15.9 million workers. Currently, California, along with the nation, is experiencing an immense economic downturn with 2.3 million California workers out of work. These are unprecedented numbers for California and the nation. Given this current economic situation, we strive to better serve California's workers and business owners during a time when more than ever, they are in need of our services. Since January 2009, the Board has been focused on the appeal backlog and identifying work solutions that will help address the workload.

WORK PROCESS IMPROVEMENTS

Project & Description	Lead	Priority	Milestones	Goals	Status
<p>EDD/CUIAB Appeal Co-Location Pilot Exploring the co-location of four CUIAB staff at EDD's LA PAC to streamline appeals registration processing.</p>		High	<ul style="list-style-type: none"> Developed scope with EDD 07/2010 Connectivity established 08/2010 Equip installed 08/2010 Train staff 09/20/2010 Launch Pilot 09/27/2010 Relaunch 06/13/2011 	<ul style="list-style-type: none"> Reduce claimants' & employers' wait time for hearing decisions. Resolve appeal registration issues in a timely manner. 	<p>Project launch on 09/27/2010. EDD & CUIAB staff will evaluate the initial project data after the first 30 days and follow with evaluations at 60 and 90 days. Suspended on 10/04/2010 to address CUIAB registration backlog due to hiring freeze. With hiring exemptions of 04/20/2011, relaunched on 06/13/2011. Scanning for 2 FOs - Pasadena & LA. 9/11 Staff are preparing a staffing strategy to expand to be able to register appeals from LA PAC for all FOs.</p>
<p>US Department of Labor Taskforce For nine years, CUIAB has failed to meet US DOL timeliness standards for UI appeals. California is ranked 51st among 53 states and US territories on time lapse and case aging standards. In late 2008, US DOL placed CUIAB under a corrective action plan with oversight by a taskforce of US DOL, EDD & CUIAB representatives.</p>		High	<ul style="list-style-type: none"> Appeal program review 07/27-31/2009 DOL report 02/05/2010 LWDA response 03/10/2010 Two yr At Risk CAP 07/15/2010 Site visit 07/27/2011 	<ul style="list-style-type: none"> Meet DOL time lapse measures. Meet DOL case age measures. 	<p>DOL site visit for third quarter status on 07/27/2011</p>

TECHNOLOGY

Project & Description	Lead	Priority	Milestones	Goals	Status
<p>CUIAB Network Upgrade This upgrade will double the bandwidth for faster processing of appeal data and information for ALJs and staff.</p>	Rafael Placencia	High		<ul style="list-style-type: none"> - Reduce processing time for appeals data flow and document saving. 	Meeting with EDD IT to explore options & alignment with Agency network consolidation efforts. Design plans are completed.
<p>Digital Imaging EDD mails hard copy documents to CUIAB when an appeal is filed. CUIAB will collaborate with EDD to image documents and records relating to all appeals and design an electronic exchange.</p>	Lori Kurosaka	High	<p>Kick off 11/2010 FSR completion 02/2011 Potential BCP 02/2011 Procurement 04/2011 FSR in review 03/14/2011</p>	<ul style="list-style-type: none"> - Reduce paper files prepared & sent by EDD. - Increase information security. - Reduce paper file storage space needs & costs at CUIAB. - Reduce postage costs. - Increase federal performance. 	DOL approved funding at \$354,000 for planning phase only. Project and procurement strategy approved by LWDA & EDD. Six week start delay due to OCIO approval. Request to EDD for estimated project costs sent in January 2011. Narrative revisions completed per Agency comments in May 2011.
<p>Digital Personnel System This project creates a paperless process for recruitment and hiring process between HR and hiring managers (Phase I). Phase II will use CUIAB's external web site to accept electronic application filing for CUIAB job vacancies.</p>	Rafael Placencia	Medium On Hold	<p>Phase I design 05/2009 Phase I implementation 06/2009 Phase II design 08/2009 Phase II implementation 09/2009</p>	<ul style="list-style-type: none"> - Replace existing manual process to full paperless process - Eliminate the mailing of applicant documentation - Reduce staff time hire transactions 	Phase I is in use. Phase II is in development.
<p>Electronic Appeal Decisions CUIAB Field staff manually sort and prepare appeal decisions for mailing to the appellants and EDD. CUIAB and EDD are jointly developing electronic solutions for the transfer of appeal decisions to all EDD programs.</p>	Lori Kurosaka	High	<p>EDD/CUIAB workgroup launched 08/18/2009 Unisys contract award 01/2010 Phase I implementation 04/14/2010 (second level) Phase II design 05/03/2010 (first level) Phase II implementation 09-10/2010</p>	<ul style="list-style-type: none"> - Reduce claimants' & employers' wait times for benefits and adjustments. - Reduce postage and paper costs. - Increase information security for claimants & employers. 	Phase III project development for Tax & DI decisions on hold through 05/2011 due to EDD's ACES implementation and DI staffing constraints. (Originally delayed from 11/2010, 01/2011, 03/2011, 04/2011 & 05/2011). Participated in three design sessions 07-08/2011 with EDD Tax, DI & IT. A few more sessions will take place prior to coding in September. Tax implementation is scheduled for late-09/2011. DI for 11/2011.

<p>Electronic Case Management CUIAB's case tracking database is 8 years old and becoming cumbersome to manage the current workload volume. CUIAB is collaborating with LWDA & EDD to develop an integrated case management system.</p>	Lori Kurosaka	High	LWDA, EDD & CUIAB approved FSR & project strategy in 10/2010. Kick off 05/2011.	DOL approved funding at \$404,000 for the planning phase only. Scheduling product research demos for August & September 2011.
<p>Expand Auto Dialer Hearing Reminder Adding email and cell phone text features for supplemental hearing notifications.</p>	Rafael Placencia	High	Updated software. Final testing 08/2010. Implemented 09/2010. Implemented email reminders 04/2011.	Fourth request for DE 1000 update to UI Branch for cell phone text messaging made on 10/06/2010. Email reminders rescheduled for delivery 7 days prior to hearing date. Revising email language for clarity 07/2011.
<p>Field Office Technology Enhancements CUIAB is investing and testing the use of larger sized monitors for hearing rooms. Also, CUIAB will provide second monitors for support staff to toggle into SCDB without interrupting their CATS displays.</p>	Rafael Placencia	On Hold Medium	Complete procurement 02/2011.	Hardware deployment continues.
<p>Field Office Telephone Tree Field Operations will test the use of phone menu options to answer routine constituent calls. This will allow support staff to spend more time on the non-routine calls.</p>	Rafael Placencia	Medium	Develop standard automated phone tree to be used for all FO's Pilot new phone tree in the Inland FO	Standard phone tree design completed. Pilot began in the Inland FO. IT & Admin are developing evaluation tool to measure pilot effectiveness.
<p>Hearing Scheduling System Currently, FO & AO support staff schedule or assign appeal hearings or cases using a hybrid manual process.</p>	Lori Kurosaka Faye Saunders	High	Charter & scope completed. Kick off 10/14/2010. Requirements 2/2011.	AO, FO & IT observed an EDD demo on their UI Scheduling System. AO submitted 21 system modifications to IT. IT will complete these by 08/31/2011. Implementation anticipated in 10/2011.
<p>Insight – Professional Development</p>	Alberto Roldan	High	- Reduce claimants & employers wait time for hearing decisions. - Provide easier electronic process for staff to calendar hearings or schedule cases.	Migrating current resources to new SharePoint site. Design &

Develop an intranet-based judicial training site to serve as a clearinghouse for all judicial training materials, sample decisions, other ALJ tools, and colleague insights on laws and appeals.	Angela Bullard				pictures completed. IT is working on text to links for resources..
LWDA Network Consolidation To comply with OCIO Policy Letter 10-14, the LWDA Departments & Boards are developing a network consolidation plan that must be completed by June 2013.	Rafael Placencia	Medium	LWDA Workgroup develops migration plan. Consensus on migration plan. Implementation	<ul style="list-style-type: none"> - Improve IT efficiency & effectiveness. - Improve security. - Reduce IT costs by using shared service models. - Reduce greenhouse gas emissions. 	The migration plan is completed and a cost model has been developed.
Personal Productivity & Mobility Pilot for Board Members, Appellate & Senior Staff CUIAB will test the use of new mobile, paperless technology with Board Members, six Appellate ALJs, and Senior Staff.	Rafael Placencia	Medium		<ul style="list-style-type: none"> - Reduce the use of paper for board appeal processing and board meetings. 	Received OCIO approval for procurement. Procurement completed. IT piloting with board members & AO judges.
Printer Standardization Standardizes the use of printers throughout the organization as they are replaced. This will reduce maintenance and toner costs through the printers lives.	Rafael Placencia	On Hold Medium		<ul style="list-style-type: none"> - Reduce maintenance & support costs. - Reduce toner costs. 	Researching feasible equipment. Standards are in place for light, heavy, color, and multi-function printers.
VOIP Telephony CUIAB is exploring use of Voice Over Internet technology to provide lower cost telecommunications.	Rafael Placencia Janet Maglante	High	Completed –21 out station hearing facilities.	<ul style="list-style-type: none"> - Elimination of long distance toll calls - Consolidation of telecommunications support areas. 	As of 9/7/11, all 23 satellite offices targeted for conversion to VOIP have been completed.
Workstation Refresh Replace the 150 remaining PCs that have expired warranties throughout the state.	Rafael Placencia	High	Completed deploy to Admin staff.		Preparing procurement documents.

STAFFING, FACILITIES, EQUIPMENT & OTHER

Project & Description	Lead	Priority	Milestones	Goals	Status
Archive File Document Conversion Each FO is retaining three years of completed paper appeal case files that are sitting in considerable real estate space. The file room space may be easily converted to ALJ offices or hearing rooms.	Lori Kurosaka Pat Houston	High	MSA vendor contract executed 01/2010. OC, Inland, LA, Oxnard, San Jose, San Diego, LA, Sacto, SF, Appellate complete Vendor quality checks 04/05, 05/06, 08/19. Vendor quality check 05/09	<ul style="list-style-type: none"> - Recapture real estate space for ALJ offices and hearing rooms. - Priority conversion for OC, Inland, LA, San Jose & Oxnard. 	FO staff are inventorying, prepping and boxing 2008 & 2009 archive appeal files in Fresno, Pasadena and Tax. FOs with adequate staffing are beginning to send 2010 files to vendor.
Judicial Advisory Council Established an advisory council of two Presiding Judges & three ALJs to seek input on major technology development.	Lori Kurosaka Janet Maglinte	High		<ul style="list-style-type: none"> - Design comprehensive technology systems with input from judicial users. 	Held weekly business requirements sessions for a case management system. Planning product demos in September.
Performance Management Tools for Board & Leadership Develop additional reporting tools that the Board & Leadership will use to monitor overall appellate performance and appeal process cycle times. These tools will also help to measure success with the large scale technology projects.	Janet Maglinte	High	Business case metrics for imaging Business case metrics for case management		Completed report templates with IT and tested with live data. Developing performance metric tool for Board & leadership to summarize data and analysis of the metrics.
Transforming CUIAB Engage a consultant to help plan and guide the leadership team through organizational change management. A consultant will assist with defining organizational structure, proactive communications with stakeholders, identify staff skill sets needed for new technology, etc. to maximize user acceptance of new technology.	Rafael Placencia Pam Boston Lori Kurosaka	High	Release RFO 03/18/2011 Rerelease RFO 05/12/2011 Bids due 05/31/2011. Intent to award 06/10/2011.	<ul style="list-style-type: none"> - Plan, design and implement organizational design for the large scale technology projects. - Plan and coordinate communications with all stakeholder groups. 	Contract approved by LWDA. Gov's Office rescinded emergency UI proclamation so the contract must be approved by DGS. Approved @ DGS. Sept. 2011 - OCM consultants are interviewing staff and preparing a project management plan.

2011 REPORT ON TELECOMMUTE POLICY

1. State Policy: "It is the policy of the State of California to encourage the use of telecommuting as a management work option." Cal Gov't Code 14200-14203.

2. Collective Bargaining Agreement: Section 6.4 of Unit 2 CBA (CASE) states: "The State and CASE recognize that telework has been proven to improve employee morale, reduce traffic congestion and improve productivity. Employee request to telework shall not be denied except for operational needs. If denied, employees may file a grievance that can be appealed to the 4th level of the grievance procedure."

3. ALJ Participation: The telecommuting program has been in existence for over 16 years. Currently, we have 17 ALJs telecommuting two days a week. 11 ALJs have participated since the beginning and six ALJs for up to 2 years. We also have six retired annuitants participating.

4. Productivity: Little Sick leave used in 2010-2011. Aside from one ALJ who was out most of the year due to illness, in 2010-2011, 2 ALJs used an average of 8.5 days of leave for illness, 8 ALJs used an average of only 1.5 days, and 7 ALJs used no time at all.

5. Office Space: Six ALJ offices are shared by ALJs who are in the office on alternative days.

6. Commute: In the fiscal year 2010-2011, AO ALJs saved between 92,100 and 98,800 miles of driving and 1894 and 2050 hours of commuting time.

7. Survey: Employees reported better productivity, better quality, more flexibility and job satisfaction, ability to retain experienced and skilled employees and a wider pool of applicants for ALJ positions. Suggestions for improvement: reducing isolation and dependence on paper.

8. Amendment to Policy: Clarify that the Chief ALJ's authority and discretion:

"Subject to the provisions of any applicable collective bargaining provision, the Chief Administrative Law Judge/Appellate Operations (CALJ/AO) has the authority to select the participants for the telecommute program and the discretion to determine the amount of time applicants need to qualify for participation as well as the number of hours applicants may telecommute per week. Selection for the telecommute program will be made using the following factors:

- (a) Completion of a period of work for Appellate Operations sufficient to demonstrate a clear understanding of the law and the procedures related to board appeals and a demonstrated ability to work independently without close supervision; "

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
P O Box 944275
SACRAMENTO CA 94244-2750

MEAGAN J POLESKY
Claimant-Appellant

Precedent Benefit
Decision No. P-B-497

DECISION

Attached is the Appeals Board decision in the above-captioned case issued by Board Panel members:

DENISE MORENO DUCHENY

BONNIE GARCIA

ALBERTO TORRICO

ROBERT DRESSER

ROY ASHBURN

Pursuant to section 409 of the California Unemployment Insurance Code, AO-144947 is hereby designated as Precedent Decision No. P-B-497.

Adopted as Precedent: September 13, 2011



CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
P O Box 944275
SACRAMENTO CA 94244-2750

MEAGAN J POLESKY
Claimant-Appellant

Case No.: AO-254427 Remand

OA Decision No.: 3653913
EDD: 0250 BYB: 01/16/2011

DECISION

Attached is the Appeals Board decision in the above-captioned case issued by Board Panel members:

DENISE MORENO DUCHENY

BONNIE GARCIA

ALBERTO TORRICO

ROBERT DRESSER

ROY ASHBURN

This is the final decision by the Appeals Board. The Appeals Board has no authority to reconsider this decision. If you disagree with the decision, please refer to the information attachment which outlines your rights.

Date Mailed:

SEP 06 2011

Case No.: AO-254427
Claimant: MEAGAN J POLESKY

REM

The claimant appealed from that portion of the decision of the administrative law judge that held the claimant disqualified for unemployment insurance benefits under section 1256 of the Unemployment Insurance Code.¹

ISSUE STATEMENT

The issue before us is whether someone who is neither married nor a domestic partner, as those terms are used in section 1256 of the code, and who voluntarily leaves work because of a need to move to follow another person to a location from which it is impractical to commute to work is necessarily disqualified from receiving benefits under section 1256.

FINDINGS OF FACT

In November, 2010, the claimant and her same-sex partner decided that they would like to get married and announced their engagement. They had started living together six or seven months earlier and were living in an apartment that cost approximately \$1,000 a month to rent. Before that, the \$13.00 an hour that the claimant was earning meant that she could only afford her rent by working seven days a week. By moving in with her fiancée, she was able to reduce the number of days she worked each week from seven to five.

Because of the 2008 passage of Proposition 8, the claimant and her fiancée were unable to get married in California. (*Strauss v. Horton* (2009) 46 Cal.4th 364, 385.) They considered a domestic partnership to be an inadequate substitute for marriage and therefore decided not to register as domestic partners.

The claimant's fiancée had a mother in Rhode Island who had been disabled by back problems for many years. The mother lived by herself, was unable to drive, and needed assistance with her daily activities. By December, 2010, a screw that

¹ Unless otherwise specified, all section references are to the Unemployment Insurance Code.

had been used in an earlier back surgery had come loose and was pressing against one of the mother's nerves, causing her pain.

The fiancée had a brother who lived near enough to help the mother, but he was not always available. There were other relatives in the area, but caring for the fiancée's mother was proving difficult for them. The mother therefore wanted her daughter to move east to help her.

The claimant and her partner discussed the situation and felt the partner should move to Rhode Island to provide support for her mother. The couple wanted to preserve their relationship and decided that they would both move to an area closer to the partner's mother to allow the partner to provide the care. The couple also believed that such a move would allow them to fulfill another one of their goals, living in a state, Massachusetts, where they could be married.² They first located suitable towns in Massachusetts that were only 45 minutes to an hour from the mother's apartment. They did not want to move to Rhode Island itself because they thought that their job prospects there were less favorable than those in Massachusetts.

The claimant and her fiancée both quit their jobs in January, 2011. The claimant's employer had no locations outside of California, so the claimant was unable to transfer. She gave her two week notice in early January and her last day of work was January 12, 2011.

Rather than moving to Massachusetts together, the claimant and her fiancée decided on a two-stage moving plan in which the fiancée would move directly to Rhode Island and live with her mother while she looked for work and a place to live. Once she found work, the claimant would come to Massachusetts to join her. Instead of remaining in California during this time, the claimant decided to move to Michigan and live with her mother in order to save money.

The claimant left California with her mother on January 17 or 18, 2011, and drove to Michigan with her possessions. She then flew back to California to help her fiancée move. The two of them drove to Rhode Island, arriving sometime in the first week of February. On February 28, the claimant flew back to Michigan while her fiancée remained in Rhode Island. As of March 5, 2011, the claimant was still living in Michigan, but was hoping to move to Massachusetts within two months.

² The Massachusetts Supreme Court held in *Goodridge v. Dept. of Public Health* (2003) 798 N.E.2d 941, that denying same-sex couples the right to marry violated the state constitution. The Court gave the Massachusetts legislature 180 days to take appropriate action in light of its ruling. Acting on orders from the governor, town clerks began issuing marriage licenses to same-sex couples on May 17, 2004.

The claimant filed for unemployment benefits with an effective date of January 16, 2011. On February 4, 2011, the Employment Development Department issued a notice of determination finding her disqualified under section 1256 because she had quit her last job due to domestic reasons and without exploring all reasonable options.

The claimant filed an untimely appeal from the determination on March 5, 2011, and the case was set for a hearing on April 20, 2011, before an administrative law judge. After the hearing, the judge first found that the claimant had shown good cause for the late filing of her appeal.³ The remainder of the judge's thoughtful decision concluded that, because the claimant and her partner were not married and had no imminent prospects of becoming married, qualification for benefits was precluded by the California Supreme Court's decision in *Norman v. Unemployment Insurance Appeals Board* (1983) 34 Cal 3d 1. The decision further found that, while *McGregor v. California Unemployment Insurance Appeals Board* (1984) 37 Cal.3d 205, provides an exception to the *Norman* rule for unmarried couples with children, the claimant did not fall within the exception because she and her partner had no children.

The claimant maintained that she could not remain employed in California while her fiancée found them a place to stay in Massachusetts because she could not afford the rent. The administrative law judge rejected this assertion on the ground that the claimant had lived on her own in California before she met her fiancée. The decision concluded that this was an additional reason for denying benefits.

At the time of the hearing, the claimant and her fiancée had set their wedding date for July 16, 2011, in Massachusetts.

REASONS FOR DECISION

The general principles governing voluntary resignations in the unemployment context are well-settled. An individual is disqualified for benefits if he or she left his or her most recent work voluntarily without good cause. (Unemployment Insurance Code, section 1256.) In general, "good cause" is such a cause as would, in a similar situation, reasonably motivate the average able-bodied and qualified worker to give up his or her employment with its certain wage rewards in order to enter the ranks of the unemployed. (*Evenson v. California Unemployment Insurance Appeals Board* (1976) 62 Cal.App.3d 1005, 1016.) If a claimant has more than one reason for quitting, he or she is entitled to benefits if one of those reasons constitutes good cause and is a substantial motivating

³ Because this is an appeal by the claimant, we need not address the correctness of this part of the decision.

factor in the decision to quit. (*Rabago v. California Unemployment Insurance Appeals Board* (1978) 84 Cal.App.3d 200, 209.)

Good cause need not arise out of, or be attributable to, the claimant's employment. (*California Portland Cement Company v. California Unemployment Insurance Appeals Board* (1960) 178 Cal.App.2d 263.) When good cause exists for personal reasons, those reasons must be so imperative and compelling as to make the voluntary leaving involuntary. (*Evenson*, 62 Cal.App.3d at 1016.)

Although each case must be judged on its own facts, some situations arise with enough frequency that the legislature, the judiciary, and this Board have all devised rules for dealing with them. One of these situations concerns what has sometimes been called a "domestic quit," i.e., when one member of a cohabiting couple decides to move to a new location that is far enough away that the other member cannot make the move and still retain his or her job. (*Altaville Drug Store, Inc. v. Employment Development Department* (1988) 44 Cal. 3d 231, 235.)

Whether section 1256 of the code allows a domestic quit claimant to receive benefits has a long history. Section 1264 originally provided that, even in the case of married couples, benefits could not be paid unless the individual filing for benefits was "the sole or major support of his or her family." (*Douglas v. Unemployment Insurance Appeals Board* (1976) 63 Cal.App.3d 110.) We nevertheless held that this rule applied only to a claimant's eligibility under section 1264 and did not prevent a claimant from qualifying under section 1256. (Precedent Decision P-B-26.) In 1976, a Court of Appeal held that section 1264 improperly disqualified women from benefits without sufficient justification and the Legislature repealed the statute entirely. (*Boren v. Department of Employment Dev.* (1976) 59 Cal.App.3d 250; Stats.1976, c. 1169, p. 5249, § 1.) In repealing the statute, the Legislature tacitly found that, as a matter of public policy, a domestic quit involving a married opposite-sex couple should be considered good cause for quitting. (*Altaville*, 44 Cal. 3d at 235.)

In 1980, the Employment Development Department promulgated a regulation recognizing that an imminent marriage might also supply good cause for leaving work. (California Code of Regulations, title 22, section 1256-12(b)(1).)⁴ The Legislature adopted a similar rule two years later by amending section 1256 to

⁴ The regulation provides that "[a] claimant leaves the most recent work with good cause if the claimant has taken reasonable steps to preserve the employment relationship and the claimant left work due to circumstances relating to the claimant's prospective or existing marital status of such a compelling nature as to require the claimant's presence, including ... (1) The claimant's prospective marriage is imminent and involves a relocation to another area because the claimant's future spouse has established or intends to establish his or her home there, and it is impossible or impractical for the claimant to commute to work from the other area."

state expressly that a claimant's decision to resign in order to move to be with a spouse constituted good cause. (Stats. 1982, c. 1073, § 1.) An uncodified part of the amendment stated that the "amendment...is intended ... to endorse the policy of the Employment Development Department, as expressed in its regulations, which distinguishes persons who are married or whose marriage is imminent from others in determining whether a person has left his or her most recent work without good cause." (Stats. 1982, ch. 1073, § 13, pp. 3873-3874.) This was eventually codified by additional legislation in 1988 that added the language "For purposes of this section "spouse" includes a person to whom marriage is imminent" to section 1256. (Stats. 1988, c. 781, § 3.)

The courts first addressed the issue of the domestic quit rule for couples with no imminent marriage prospects in *Norman v. Unemployment Insurance Appeals Board*. (1982) 131 Cal.App.3d 946, *overruled*, 34 Cal.3d 1. The claimant in that case was living with her boyfriend in California, but was not married to him. (34 Cal. 3d at 4.) When he found a new job in Washington, the claimant quit her job so that she could move to be with him. (*Id.*) The claimant had inquired about work in Washington before she left California and felt that she would be able to find work there. (*Id.*) After she moved, however, she was unable to find work and so filed for unemployment benefits. (*Id.*) The claimant acknowledged that her sole reason for quitting her job was to be with her boyfriend. (*Id.*) The two had decided to marry before they left California and had set a date for their wedding approximately nine months after their move to Washington. (*Id.*)

The Court of Appeal held that neither the fact that the claimant was living with her boyfriend nor the nine month lapse before the couple's intended marriage prevented the claimant from qualifying under section 1256. (131 Cal. App. 3d at 713.) The Supreme Court disagreed. Noting its previous recognition of a strong public policy favoring marriage and the lack of a similar policy favoring the maintenance of non-marital relationships, the Court concluded that the claimant could not, as a matter of law, establish good cause for her voluntary departure from her employment within the meaning of section 1256. (34 Cal. 3d at 9.) "In the absence of legislation which grants to members of a non-marital relationship the same benefits as those granted to spouses, no basis exists in this context for extending to non-marital relations the preferential status afforded to marital relations." (*Id.*)

The Court considered a similar issue the following year in *McGregor v. California Unemployment Insurance Appeals Board* (1984) 37 Cal.3d 205. In that case the Court upheld under section 1256 the claim of a waitress who voluntarily quit her job to accompany her fiancé and their infant daughter to New York to live with the fiancé's ailing and aged father. (*Id.* at 208.) The Court found that the lack of a legally recognized marriage did not prevent the claimant from demonstrating that

"compelling familial obligations" provided good cause for leaving employment. (*Id.* at 213.)

When, in 2001, the legislature created domestic partnerships, it also modified section 1256 to extend the domestic quit rule to domestic partners. (Stats.2001, c. 893 (A.B.25), § 59.) In 2010, the rule was expanded again to include those for whom a domestic partnership is imminent. (Stats.2010, c. 590 (A.B.2055), § 3.) This effectively put domestic partners in the same position as spouses for purposes of the domestic quit rule:

While *Norman* is undoubtedly the Supreme Court's definitive statement on the domestic quit situation, it is susceptible to differing interpretations. On the one hand, it can be read to announce an inflexible rule that one person has good cause to leave employment in order to join another in a distant place only if the two are either married or engaged with a definite and early date for the wedding. (34 Cal 3d at 10 n.1. (Broussard, J., dissenting).) We have, in fact, sometimes interpreted *Norman* in just this fashion and that appears to be the position taken by the administrative law judge in this case. On closer inspection, however, the holding in *Norman* is much more limited.

Norman explicitly states that nothing in its holding would prevent claimants who are not married or engaged "from establishing 'good cause' based on compelling circumstances which make [their] voluntary leaving akin to an involuntary departure." (*Id.* at 10.) Furthermore, the benefits that *Norman* confers on married couples are not substantive, but evidentiary. (*Id.*) In other words, *Norman* creates a presumption for married couples that good cause for a resignation exists in domestic quit cases where the claimant is either an actual or imminent spouse. By virtue of the domestic partnership legislation, a similar rule applies to domestic partners. Other people do not enjoy the benefit of this presumption, but can still demonstrate good cause based on their own particular circumstances.

This view of *Norman* is affirmed by *McGregor*. *McGregor* explicitly states that what *Norman* created was not a hard and fast rule, but a presumption that attaches to legally married couples. (37 Cal. 3d at 211.) This presumption is, however, not the only way that a claimant can demonstrate good cause based on compelling circumstances as the facts of *McGregor* show. (*Id.*) Even though the claimant in *McGregor* was not married and had no immediate plans to marry, the need to preserve the family unit was sufficient to provide good cause for her to quit her job to follow the father of their child. (*Id.* at 212.)

We now explicitly adopt this view of *Norman*. When a spouse or domestic partner⁵ of a claimant moves to a place from which it is impossible or impractical for the claimant to commute to his or her job, there is a presumption that the claimant has good cause to resign from work to follow the spouse or partner. In the case of other people who make such a move, there is no such presumption, but a claimant in this situation might still be able to demonstrate a prima facie case of good cause for resigning by showing that the legal, financial, emotional, and other ties between those involved are "so imperative and compelling as to make the voluntary leaving involuntary." (Evenson, 62 Cal.App.3d at 1016.) As in other contexts, good cause here cannot be determined in the abstract, but only in relationship to the totality of the claimant's circumstances. (*Zorrero*, 47 Cal.App.3d at 439.) All relevant aspects of the claimant's relationship to the person and the decision to quit and move to follow that person to a new location must therefore be considered.

A rule requiring consideration of the totality of the circumstances surrounding a claimant's decision to resign is also more faithful to the language of section 1256 than fixed rules based on the claimant's status. The statute, after all, phrases the right to benefits in terms of the general concept of good cause and not in terms of a claimant's marital status or sexual orientation. Imposing a limitation based on these latter factors has no basis in the language of the statute.

Finally, a totality of the circumstances interpretation of good cause in domestic quit cases furthers the fundamental purpose of the unemployment insurance laws which is to provide benefits to those who are unemployed through no fault of their own. (Unemployment Insurance Code, section 100; *Air Couriers International v. Employment Development Department* (2007) 150 Cal.App.4th 923, 936.) To that end, the code "must be liberally construed to further the legislative objective of reducing the hardship of unemployment". (*Gibson v. Unemployment Insurance Appeals Board* (1973) 9 Cal.3d 494, 499.) Imposing a test based on a claimant's marital status runs the risk of disenfranchising those who, through no fault of their own, are unable to marry in California.

Other states have adopted similar rules. In *Reep v. Commissioner of the Department of Employment and Training* (1992) 412 Mass. 845, for example, the Massachusetts Supreme Court considered the case of an unmarried woman who quit her job to be with her partner of 13 years who was moving to a different city. (*Id.* at 845-46.) The Court held that the fact that the couple was not married did not prevent the claimant from showing that she had good cause to resign. The Court also held that the emotional ties between the two could be considered in

⁵ These terms include, of course, those to whom marriage or a domestic partnership is imminent. (Unemployment Insurance Code, section 1256, para. 4.)

deciding whether good cause existed as well as the couple's financial relationship. *Id.* at 851, 852. Among the factors that might be considered would be whether the two partners "regarded each other and were regarded by others as spouses; whether they shared income; whether they maintained joint checking and savings accounts and joint credit card accounts; whether they had executed powers of attorney in order for one partner to make decisions during the illness of the other; whether they were the named beneficiaries of each other's life insurance policies; and whether they were the legatees or executors of each other's estates."

The New York Appeals Board, in Case No. 513233-A, has also held that good cause for resigning in these situations is not limited to marital partners. An unmarried claimant can establish good cause by proving that he and his partner maintain "an emotionally and financially interdependent committed relationship." Among the factors to be considered are co-ownership of property, the existence of joint bank and credit accounts, registration as domestic partners, and the partners' status as beneficiaries on each other's insurance policy and will. These factors, and those described in *Reep*, are appropriate considerations in domestic quit cases, but the inquiry is by no means limited to them. As an example, consideration is also appropriate of the length of time the individuals have been involved in a relationship is a factor in assessing the nature of the relationship.

We see no reason why the result in this case should be different because the claimant and her partner are of the same sex. Unlike many other states, California grants "same-sex couples who choose to become domestic partners virtually all of the legal rights and responsibilities accorded married couples." (*In re Marriage Cases*, 43 Cal. 4th at 779.) Because of this, the Supreme Court has held that denying same-sex couples the same constitutional right to marry in California that opposite-sex couples enjoy violates their rights to privacy, equal protection, and due process under the California Constitution. (*Strauss*, 46 Cal. 4th at 384-85.) As a result, same-sex couples have a constitutional right to enter into a "protected family relationship that enjoys all of the constitutionally based incidents of marriage." (*In re Marriage Cases*, 43 Cal. 4th at 829.) It follows that the ability of one member of a couple to receive benefits cannot be denied based solely on the fact that the other member is of the same sex.

The holding of *In re Marriage Cases* was modified by the passage of Proposition 8 in 2008, but the import of that proposition is limited.⁶ Proposition 8 had the effect of limiting the use of the term "marriage" to heterosexual couples, but it did not change the right of same-sex couples to all of the benefits opposite-sex

⁶ Proposition 8 added a new section to the California Constitution. The new article I, section 7.5 reads: "Only marriage between a man and a woman is valid or recognized in California."

couples enjoy by virtue of their marriage. (*Strauss v. Horton*, 46 Cal. 4th 364, 408.)

The rule that we adopt today is also not limited to cohabiting couples. Whenever any claimant has decided to move to a new location to be with another person or persons and the new location is far enough away from the old that retaining the claimant's job is impossible or impractical, the issue of whether the claimant is disqualified under section 1256 must always be decided based on the totality of the circumstances. This inquiry is greatly simplified when the person involved is entitled to the presumption created by *Norman* and currently embodied in the fourth paragraph of section 1256. In all other cases, the decision must be based on a consideration of all relevant facts and not by the application of rules of thumb based on the claimant's marital status.

For all of these reasons, we conclude that the decision of the administrative law judge denying benefits to the claimant was based on limited legal principles that did not incorporate the totality of circumstances analysis mentioned in this decision and must be set aside. Because analysis under the proper standard may require the taking of additional evidence, we also remand the case for further proceedings. We express no view on whether, on the facts that will be developed, the claimant is disqualified for benefits.⁷

DECISION

The decision of the administrative law judge is set aside. The case is remanded to an administrative law judge for a hearing and decision on the merits. The hearing transcript/audio recording, exhibits, and other documents previously produced in the course of these proceedings shall remain a part of the record.⁸

⁷ The decision in this case holds, as an additional ground for denying benefits, that the claimant could have remained at her job in California while her fiancée found a job and an apartment in Massachusetts. This conclusion is based on a factual finding that the claimant could have afforded to live in California because she had done so previously. The only evidence in the record to support that finding is the claimant's statement that she could afford to live on her own in California only by working seven days a week and that moving in with her fiancée enabled her to cut back her work schedule to five days a week. No evidence was taken on whether the claimant could have worked seven days a week at the time of her quitting the job, how many hours the claimant had to work during those seven days, how much her apartment cost, whether similar apartments were still available, or how much the claimant needed to spend on other necessities. Because the record on this point is so meager and because we must remand the case for the reasons stated above, we find it prudent to set aside this part of the administrative law judge's decision as well and allow for the taking of additional evidence on this point.

⁸ In designating this decision a precedent, we are guided by section 5109 of Title 22 of the California Code of Regulations. That section provides that a decision may be designated a precedent if it contains a significant legal or policy determination of general application that is likely to recur. (California Code of Regulations, title 22, section 5109(a).) In this context, we note that the issue we address here is not only likely to recur, but appears almost certain to occur more and more often. In 1976, the Supreme Court

stated with respect to unmarried heterosexuals that, "the mores of the society have indeed changed so radically in regard to cohabitation that we cannot impose a standard based on alleged moral considerations that have apparently been so widely abandoned by so many." (*Marvin v. Marvin*, 18 Cal.3d 660, 684.) At that time, there were fewer than 1 million unmarried cohabiting couples in the United States. Recent census figures show that this number has now increased to 7.5 million couples. According to the 2000 census, approximately 12.2 percent of California households now contain two unmarried adults who are living together in an intimate relationship. This includes both same-sex and opposite-sex couples and represents an increase from 495,223 couples in 1990 to 683,516 in 2000.