



**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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November 7, 2011

To: Board Members

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

1. Office of the Chief

- The Presiding Administrative Law Judges met in Sacramento on October 4th and 5th.
- The Insight Portal on our internal was successfully rolled out in October 2011. Insight is now functioning as a materials clearinghouse and communication portal on substantive issues for the ALJs. An oversight committee is actively monitoring submitted opinions, forms and legal advice to ensure that it meets appropriate State and federal standards.
- Angela Bullard has been selected as the Presiding Administrative Law Judge for the Federal Standards Compliance position in the Chief's Office.

2. Snapshot of Field Operations through October 2011

Overall October 2011 Workload and Performance: After an aggressive September designed to finish the federal fiscal year strongly, October was anticipated to be a quieter month. It played out as expected. The number of new cases [38,682] was right at the monthly average for 2011. Note however that over 1,500 of these cases represented catching up on the backlog of unverified appeals that spiked up in the previous months. This means the actual workload was smaller than a typical month, especially one with 31 days. Closed cases [36,128] were down almost 8,000 from September and were 9% lower than average for 2011. As a result, the open inventory [61,349] rose slightly to the level it was in May 2011 after hitting a three year low the previous month. The overall level of *registered* open cases has been relatively static for seven months. Note that the hub queue for a number of months has been consistently below 500. In addition, the *en routes* have been held consistently below 8000 for a number of weeks. This represents that we are doing a much better job of moving inventory through the pipeline.

Case Aging and Time Lapse for October: Average case age did increase to 34 days from last month's performance. This is still below the average for 2011. 90-day time lapse [97%] hit its

highest mark since June 2007. 45-day time lapse hit a seven month low, but ironically 30-day time lapse inched up to 5% for the first time in three years.

Unemployment Insurance (UI) for October: New UI cases [36,161 cases; 20,648 appellants] were the fewest in three months. Closed cases [33,663 cases; 19,222 appellants] were the fewest since May and 2,500 fewer than the number of new cases. As a result, the open inventory [51,067 cases; 29,154 appellants] is the largest since May.

Disability Insurance (DI) for October: In DI, new cases [1,392] were 7% below the monthly average and the fewest since May. Closed cases [1,579] were 4% greater than average and the most since March. After three straight months of growing caseloads, the open inventory [1,930 cases] fell back below 2,000 for the first time since July.

Tax, Rulings, Other for October: The verification of ruling cases took a back seat to UI and DI for several months and through September 2011. In October, SCRSU turned its focus back to this class of hearings and verified almost 900 new ruling cases. Although dispositions were 24% greater than average for this year, the open inventory jumped to an eight month high. It should be noted that historically we always receive the bulk of the ruling appeals during the summer and early fall, so this bump should not be viewed with alarm.

In tax, intake [147 new cases] was down 58% from the historic level of September, but output [293 closed cases] fell only slightly and remained at a high level. There were twice as many closed as new cases. This was the fifth time in six months where the backlog has been reduced. The open inventory is now the smallest it has been since January 2010.

UI TRENDS - FO

Program Codes 1, 2, 3, 4, 5, 6, 8, 23, 24, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 44, 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	39,828	36,161			366,827	36,663	100%	150
													2010	100%	98%	
													2009	113%	113%	
													2008	138%	141%	
														chg to '11 avg	chg to '11 YTD	

UI registrations Oct to date are down 2% from 2010, up 13% from 2009, and up 41% from 2008
 UI registrations monthly average is even with 2010, up 13% from 2009, and up 38% 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	41,802	33,663			373,666	37,367	100%	-22
													2010	100%	99%	
													2009	118%	121%	
													2008	152%	152%	
														chg to '11 avg	chg to '11 YTD	

UI dispositions Oct to date are down 1% from 2010, up 21% from 2009, and up 52% 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	Total	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	48,650	51,057				52,665	77%	-15,593
													2010	77%	75%	
													2009	68%	67%	
													2008	118%	127%	
														chg to '11 avg	chg to '11 YTD	

UI balance of open cases Oct to date is down 25% from 2010, down 33% from 2009, and up 27% from 2008
 UI balance monthly average down 23% from 2010, down 32% from 2009, and up 18% 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	184	233	140	163	94	137	146	181	188	232	1,969	163	78%	-45
2011	134	168	144	261	140	180	112	266	364	147			1,916	192	117%	28
													2010	117%	124%	
													2009	92%	94%	
													2008	88%	87%	

Tax registrations Oct to date are up 24% from 2010, down 6% from 2009, and down 13% from 2008

Tax registration monthly average is up 17% from 2010, down 8% from 2009, and down 12% 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	325	293			2,274	227	186%	105
													2010	186%	200%	
													2009	172%	198%	
													2008	157%	144%	

Tax dispositions Oct to date are up 100% from 2010, up 98% from 2009, and up 44% from 2008

Tax disposition monthly average is up 86% from 2010, up 72% from 2009, and up 57% 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	2,739	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	4,666	4,520				4,737	100%	2	
														2010	100%	101%	
														2009	119%	122%	
														2008	155%	159%	

Tax balance of open cases Oct to date is up 1% from 2010, up 22% from 2009, and up 59% from 2008

Tax balance monthly average is even with 2010, up 19% from 2009, and up 55% from 2008

	2010	2009	2008
chg to '11 avg			
chg to '11 YTD			

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	1,324	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	1,489	1,392			14,939	1,494	100%	2

DI registrations Oct to date are down 3% from 2010, down 2% from 2009, and down 6% from 2008
DI registration monthly average is even with 2010, up 1% from 2009, and down 4% 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	1,579	1,477	1,506	1,368	1,884	1,720	1,601	1,365	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	1,844	1,648	1,753	1,527	1,701	18,080	1,508	99%	-21
2010	1,283	1,557	1,987	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	1,426	1,579			15,148	1,515	98%	-34

DI dispositions Oct to date are down 3% from 2010, up 2% from 2009, and down 5% from 2008
DI disposition monthly average is down 2% from 2010, even with 2009, and down 1% 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	2,590	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	2,117	1,930				2,093	78%	-586

Open Balance DI Oct to date is down 24% from 2010, down 45% from 2009, and down 24% from 2008
Open Balance monthly average down 22% from 2010, down 43% from 2009, and down 25% from 2008

	2010	2009	2008	chg to '11 avg	chg to '11 YTD
Avg.	78%	57%	75%		
% Chg of Avg	76%	55%	76%		
Yr-Yr AvgChg					

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	207	982			4,087	410	82%	-88
													2010	82%	74%	
													2009	111%	127%	
													2008	111%	97%	
																chg to '11 avg
																chg to '11 YTD

Other registrations Oct to date are down 26% from 2010, up 27% from 2009, and down 3% from 2008
 Other registration monthly average is down 18% from 2010, up 11% from 2009, and up 11% 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	530	593			4,918	492	96%	-21
													2010	96%	91%	
													2009	193%	201%	
													2008	152%	145%	
																chg to '11 avg
																chg to '11 YTD

Other dispositions Oct to date are down 9% from 2010, up 101% from 2009, and up 45% from 2008
 Other disposition monthly average is down 4% from 2010, up 93% from 2009, and up 52% 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		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		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		5,159	134%	1,313	
2011	4,281	3,977	3,340	3,692	3,792	3,672	3,716	3,772	3,453	3,842				3,754	73%	-1,405	
														2010	73%	72%	
														2009	98%	103%	
														2008	112%	113%	
																chg to '11 avg	
																chg to '11 YTD	

Other balance of open cases Oct to date is down 28% from 2010, up 3% from 2009, and up 13% from 2008
 Other balance monthly average is down 27% from 2010, down 2% from 2009, and up 12% from 2008

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	41,888	38,682			387,579	38,758	100%	92
													2010	100%	98%	
													2009	112%	112%	
													2008	135%	137%	
													chg to '11 Avg		chg to '11 YTD	

Registrations Oct to date are down 2% from 2010, up 12% from 2009, and up 37% from 2008
 Registration monthly average is even with 2010, up 12% from 2009, and up 35% 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	44,083	36,128			396,006	39,601	100%	28
													2010	100%	99%	
													2009	118%	121%	
													2008	149%	148%	
													chg to '11 Avg		chg to '11 YTD	

Dispositions Oct to date are down 1% from 2010, up 21% from 2009, and up 48% 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	86,487	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	80,086	64,024	61,203	60,107	61,211	58,886	61,349			63,249	78%	-17,582	
													2010	78%	78%	
													2009	71%	71%	
													2008	117%	125%	
													chg to '11 Avg		chg to '11 YTD	

Open Balance Oct to date is down 24% from 2010, down 29% from 2009, and up 25% from 2008
 Open Balance monthly average is down 22% from 2010, down 29% from 2009, and up 17% from 2008

STATEWIDE	2011												STATEWIDE						
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Average	Current Mo. % of Avg	Total	Appellants Current Mo	Average	Total	
WORKLOAD																			
New Opened Cases																			
UI TL	38,676	34,399	39,484	36,519	36,159	35,785	32,527	38,079	39,828	36,161			36,663	99%	366,527	20,648	20,934	208,344	
DI	1,537	1,651	1,411	1,691	1,360	1,428	1,405	1,575	1,489	1,392			1,494	93%	14,939				
Ruling & T-R	48	64	51	693	504	492	411	431	190	957			385	248%	3,549				
Tax	134	168	144	261	140	180	112	266	354	147			192	77%	1,916				
Other	18	33	31	46	22	18	15	23	17	25			25	101%	248				
Total	40,411	36,315	41,141	39,210	38,185	37,903	34,470	40,374	41,888	38,682	0	0	38,758	100%	387,579				
Multi Cases		47	26	7	6	2	8			2									
Closed Cases																			
UI TL	34,029	37,998	50,124	35,054	32,103	38,117	33,797	36,979	41,802	33,663			37,367	90%	373,666	19,222	21,338	213,363	
DI	1,295	1,576	1,925	1,512	1,441	1,567	1,365	1,462	1,426	1,579			1,515	104%	15,148				
Ruling & T-R	413	380	593	361	385	596	367	381	506	576			466	124%	4,658				
Tax	139	173	193	292	176	277	166	278	326	293			227	129%	2,274				
Other	29	19	35	29	39	35	17	16	24	17			26	65%	260				
Total	35,906	40,146	52,970	37,208	34,144	40,552	35,714	39,116	44,083	36,128	0	0	39,601	91%	396,006				
Multi Cases			416	475	1545	24	12		18	24									
Balance - Open Cases																			
UI TL	63,632	59,909	49,088	49,435	53,389	50,926	49,805	50,785	49,650	51,057			52,665	97%		29,154	30,071		
DI	2,390	2,465	1,951	2,126	2,045	1,905	1,943	2,054	2,117	1,930			2,093	92%					
Ruling & T-R	4,243	3,926	3,293	3,627	3,744	3,641	3,666	3,736	3,425	3,806			3,713	103%					
Tax	4,880	4,874	4,824	4,833	4,797	4,700	4,843	4,630	4,666	4,520			4,737	95%					
Other	38	51	47	65	48	31	30	36	28	36			41	88%					
Total	75,183	71,225	69,203	69,086	64,024	61,203	60,107	61,211	58,886	61,349	0	0	63,248	97%					
Multi Cases		80	75	52	12	5	2	8											
Time Lapse																			
30 TL %	3	3	3	4	4	3	3	4	3	3			4	143%					
45 TL %	12	16	22	31	27	28	26	27	25	23			24	97%					
90 TL %	76	73	82	93	94	94	95	95	95	97			89	109%					
CASE AGE																			
Average Days UI (mean)	47	44	35	35	36	34	36	33	31	34			37	93%					
Average Days UI (median)	42	39	31	32	32	30	33	30	30	32			33	97%					
>90 Days Old UI	10%	8%	3%	2%	2%	2%	2%	2%	1%	1%			3%	30%					
>90 Days Old w/ Multi	10%	8%	3%	2%	2%	2%	2%	2%	1%	1%			3%	30%					
>90 Days Old DI	16%	15%	9%	4%	5%	5%	4%	4%	4%	3%			7%	43%					
PY USAGE																			
Non ALL	200,651	203,005	205,938	208,371	172,561	189,300	165,800	195,400	196,650				196,500	101%					
Field Offices	204,229	212,421	210,944	206,056	192,461	204,300	182,150	204,700	207,560				203,900	102%					
Net Pys	404,944	415,477	416,824	414,442	365,040	393,600	377,956	400,100	404,240				399,200	101%					
Ratio 1/1	1.02	1.06	1.02	0.99	1.12	1.08	1.03	1.06	1.06				1.05	101%					
WFOH&RESU																			
ALL	206,994	209,871	212,538	214,728	176,921	196,310	191,703	201,030	203,260				201.5	101%					
SS W/EDD																			
Non ALL	240,633	265,644	252,488	248,000	229,260	240,960	223,430	238,990	244,790				241.6	101%					
Net Pys	447,571	485,511	485,068	462,720	406,180	437,270	415,220	440,020	446,050				443.1	101%					
Ratio 1/1	1.16	1.22	1.19	1.15	1.30	1.23	1.17	1.19	1.20				1.20	100%					
PRODUCTIVITY																			
Weekly Dispos per ALL (Udell)	42.7	49.6	55.8	40.5	45.1	45.9	45.8	41.6	50.6				46.4	109%					
Weekly Dispos per ALL	43.4	50.3	56.6	41.3	46.0	47.0	46.6	42.3	51.6				47.2	109%					
Weekly Dispos (Non-ALL)	37.3	41.3	47.7	35.7	35.5	38.3	40.0	35.6	42.9				38.4	109%					

AO REPORT TO BOARD—MONTH OF OCTOBER 2011

	# Cases	# Appellants	Calendar Yr Ave
REGISTRATIONS	3,298	1,956	6% above
DISPOSITIONS	3,804	2,367	42% above
OPEN BALANCE	5,058	3,262 (est.)	4% below
PENDING REG (10/1/11)	685		

CASE AGING 39 Days MET DOL STANDARD (40 days or less)

TIME LAPSE

DOL Standard	Actual % for October 2011	Expected
45 Days	12%	50%
75 Days	73%	80%
150 Days	99%	95%

APPEAL RATE: 7.5 %

ADDITIONAL INFORMATION

FO to AO Monthly Report-3.85 days Statewide Average

New Retired Annuitant

Office Luncheon

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

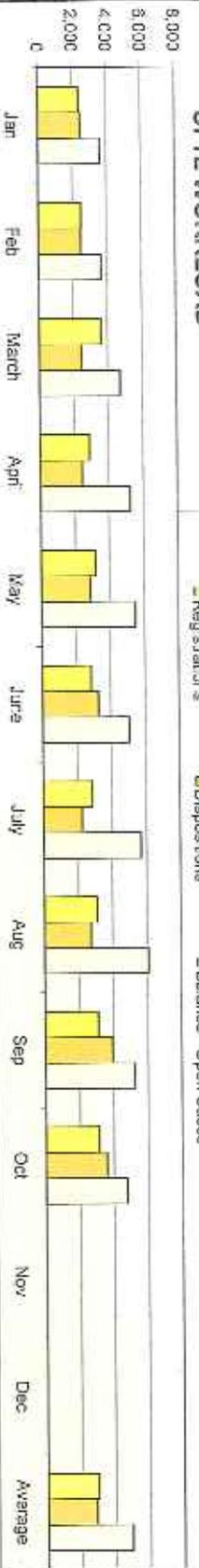
	October, 2011	September, 2011	August, 2011	July, 2011
	Average Days in Transfer	Average Days in Transfer	Average Days in Transfer	Average Days in Transfer
	Case Count	Case Count	Case Count	Case Count
Fresno	2.82	3.48	3.12	4.39
Inglewood	3.47	4.24	6.33	7.74
Inland	3.69	4.22	5.30	8.05
Los Angeles	3.96	3.97	4.21	4.18
Oakland	3.26	3.78	4.27	7.18
Orange County	3.10	3.52	3.21	3.59
Oxnard	4.06	4.83	4.07	4.52
Pasadena	8.67	8.55	9.66	8.01
Sacramento	4.55	5.08	6.27	5.16
San Diego	3.44	4.60	6.94	12.13
San Francisco	3.28	3.41	3.69	2.89
San Jose	4.94	4.87	13.50	5.60
Tax Office	7.00	5.14	16.92	5.04
Total	3.85	4.50	5.59	6.20
	2388	2821	3069	2945

APPELLATE OPERATIONS - REPORT SUMMARY

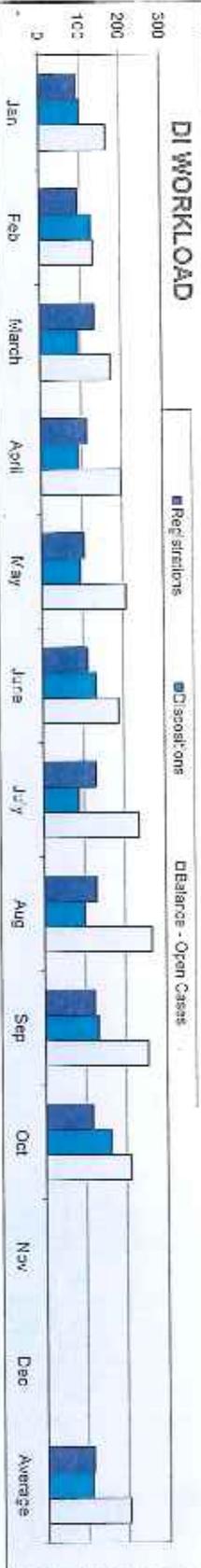
APPELLATE		2011												Average	AO	TOTAL	Appellants	
WORKLOAD		Jan	Feb	March	April	May	June	July	Aug	Sep	Oct	Nov	Dec		% of Avg.		Current Mo.	
Registrations																		
LI TL		2,388	2,509	3,616	2,982	3,165	2,850	2,958	3,104	3,115	3,121				2,961	105%	29,609	
DI		51	94	135	114	105	112	131	130	124	118				115	102%	1,154	
Ruling & TR		3	2	5	13	12	8	8	9	13	13				8	160%	81	
Tax		25	18	21	33	32	2	22	23	6	43				23	150%	226	
Other		1	2	2	4	4	1	1	1	1	3				2	150%	20	
Total		2,503	2,625	3,779	3,043	3,318	2,971	3,021	3,267	3,259	3,298				3,109	106%	31,090	
Null Cases			11	50					2									
Dispositions																		
LI TL		2,478	2,459	2,464	2,442	2,859	3,265	2,252	2,722	3,951	3,595				2,949	126%	28,495	
DI		100	128	93	51	95	132	88	133	133	162				112	145%	1,120	
Ruling & TR		8	2	2	0	6	16	6	4	11	13				7	191%	68	
Tax		15	34	21	12	34	30	16	31	13	33				25	135%	245	
Other		2	3	3	1	3	4	1	3	2	1				2	50%	20	
Total		2,601	2,828	2,583	2,546	2,894	3,447	2,361	2,890	4,113	3,804				2,994	127%	28,538	
Null Cases				111		109												
Balance - Open Cases																		
LI TL		3,619	3,688	4,738	5,237	5,489	5,090	5,700	6,077	5,243	4,797				4,983	96%		
DI		167	133	175	198	208	189	234	265	254	210				203	103%		
Ruling & TR		2	2	5	18	24	15	16	21	23	23				15	154%		
Tax		82	66	55	87	86	53	66	58	45	55				67	82%		
Other		2	1	0	3	7	4	4	2	1	3				3	111%		
Total		3,872	3,870	4,984	5,543	5,814	5,359	6,320	6,423	5,566	5,056				5,251	95%		
Null Cases				45	31	2	2	2	4	2	4							
FO to AO Appeal Rate																		
LI TL		6.6%	7.4%	8.5%	5.7%	9.0%	8.9%	7.5%	9.2%	8.4%	7.5%				8.0%	94%		
DI		5.8%	7.3%	8.3%	5.9%	6.9%	7.3%	8.4%	9.5%	8.5%	8.3%				7.7%	108%		
Ruling & TR		0.0%	0.5%	1.3%	1.9%	3.3%	1.5%	1.3%	2.5%	3.4%	2.5%				1.8%	140%		
Tax		10.6%	12.9%	12.1%	17.1%	12.7%	1.1%	8.3%	13.7%	2.2%	13.2%				10.4%	127%		
Other		3.3%	6.9%	10.5%	11.4%	13.6%	2.8%	2.3%	5.9%	6.3%	12.5%				7.7%	163%		
Overall Rate		6.5%	7.3%	9.4%	5.9%	8.9%	8.7%	7.4%	9.1%	8.3%	7.5%				7.9%	95%		

Current Mo. 3,262 Balance

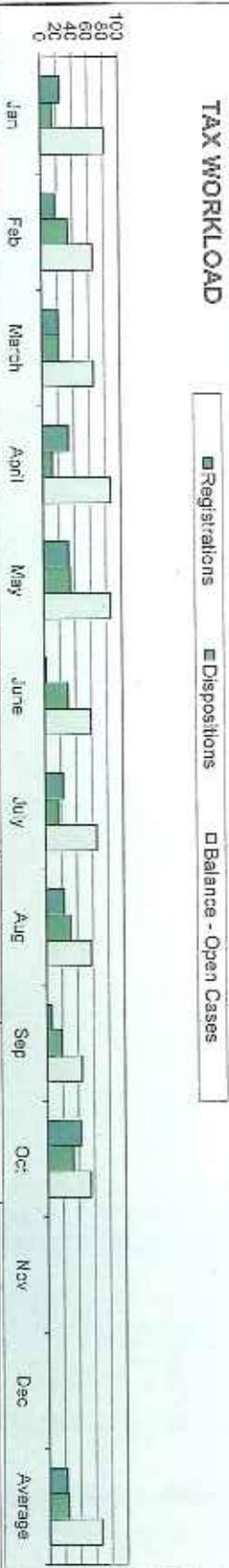
UITL WORKLOAD



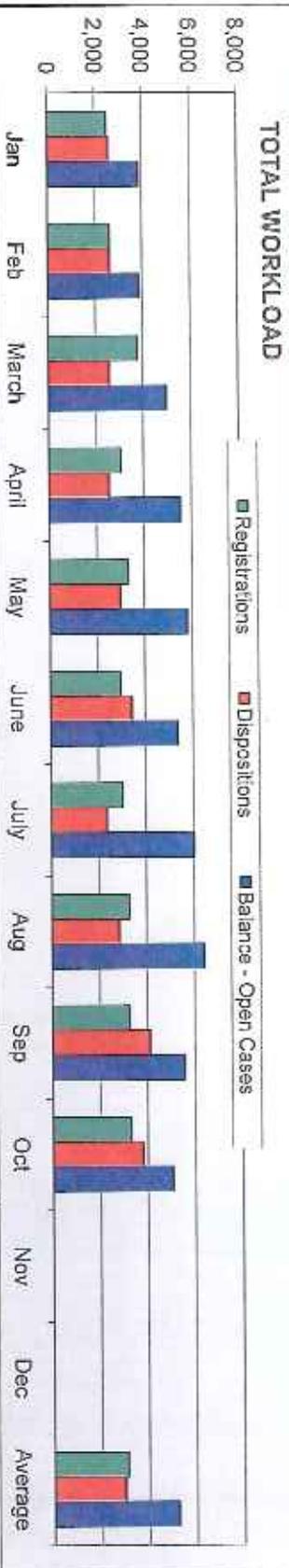
DI WORKLOAD



TAX WORKLOAD

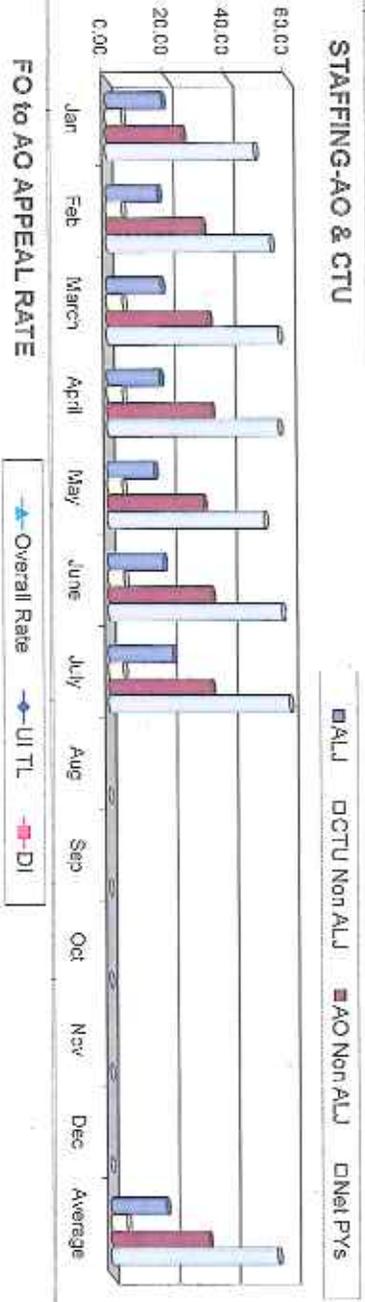


TOTAL WORKLOAD



APPELLATE

STAFFING-AO & CTU



FO to AO APPEAL RATE

Overall Rate UI TL DI

AO

Board Member	1st	2nd	3rd	UI	DI	Ruling	Tax	1 Party	2 Party	Total
Alberto Torrico										
Sum	544	606	12	1072	73	6	11	406	756	1162
Percent	23%	25%	16%	24%	23%	25%	31%	23%	25%	
Bonnie Garcia										
Sum	570	555	15	1049	77	6	8	436	704	1140
Percent	24%	23%	20%	23%	25%	25%	22%	24%	23%	
Dennis Hollingsworth										
Sum	516	621	11	1058	70	10	10	437	711	1148
Percent	22%	26%	14%	24%	22%	42%	28%	25%	23%	
Robert Dresser										
Sum	194	11	31	223	12	0	1	82	154	236*
Percent	8%	0%	41%	5%	4%	0%	3%	5%	5%	
Roy Ashburn										
Sum	560	592	7	1070	81	2	6	419	740	1159
Percent	23%	25%	9%	24%	26%	8%	17%	24%	24%	
Total Cases Reviewed:	2384	2385	76	4472	313	24	36	1780	3065	

*Off Calendar

Monthly Board Meeting Litigation Report - October 2011

AGENDA ITEM 9

<u>LITIGATION CASES PENDING</u>	TOTAL = 293
SUPERIOR COURT: Claimant Petitions.....	244
Employer Petitions.....	22
EDD Petitions.....	3
Non-benefit Court Cases	7
APPELLATE COURT: Claimant Appeals.....	11
Employer Appeals.....	4
EDD Appeals.....	0
Non-benefit Court Cases	1
ISSUES: UI.....	253
DI.....	17
Tax.....	14
Non-benefit Court Cases	9

2011 CALENDAR YEAR ACTIVITY - Benefit & Tax Cases

<u>LITIGATION CASES FILED</u>	<u>YTD</u>	<u>October</u>
SUPERIOR COURT: Claimant Petitions.....	108	5
Employer Petitions.....	6	0
EDD Petitions.....	0	0
APPELLATE COURT: Claimant Appeals.....	7	1
Employer Appeals.....	0	0
EDD Appeals.....	0	0
 <u>LITIGATION CASES CLOSED</u>	 <u>YTD</u>	 <u>October</u>
SUPERIOR COURT: Claimant Petitions.....	61	3
Employer Petitions.....	13	1
EDD Petitions.....	1	0
APPELLATE COURT: Claimant Appeals.....	3	0
Employer Appeals.....	0	0
EDD Appeals.....	0	0

2011 Decision Summary

<u>Claimant Appeals</u>		<u>Employer Appeals</u>		<u>CUIAB Decisions</u>		
Win: 19	Loss: 44	Win: 3	Loss: 9	Affirmed: 53	Reversed: 19	Remanded: 4

CUIAB 11/12 Fiscal Year Overtime - SCO Report
July 2011 through September 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	219.30	\$5,485.55	611.00	\$18,187.33	593.80	\$16,437.86	531.90	\$13,147.08
Admin	40.75	\$1,604.34	0.00	\$0.00	0.00	\$0.00	434.75	\$19,045.60
IT	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	772.25	\$31,093.59
Exec	20.00	\$872.82	0.00	\$0.00	168.00	\$7,364.74	57.50	\$1,773.10
Field	353.00	\$10,829.40	0.00	\$0.00	2,682.00	\$79,898.04	2,803.50	\$83,590.00
Total	633.05	\$18,792.11	611.00	\$18,187.33	3,443.80	\$103,700.64	4,599.90	\$148,649.37

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	1,956.00	0.94	\$53,257.82	-\$658.82	-\$160,432.28	
Admin	\$90,306.00	475.50	0.23	\$20,649.94	\$69,656.06	\$7,706.24	
IT	\$123,050.00	772.25	0.37	\$31,093.59	\$91,956.41	-\$1,324.36	
Exec	\$21,977.00	245.50	0.12	\$10,010.66	\$11,966.34	-\$18,065.64	
Field Operations	\$864,113.00	5,838.50	2.81	\$174,317.44	\$689,795.56	\$166,843.24	
Total	1,152,045.00	9,287.75	4.47	\$289,329.45	\$862,715.55	-\$5,272.80	
Actual Monthly Average Personnel Year						17.86	

11/12 Fiscal Year-to-Date Lump Sum Payout					
July 2011 through September 2011					
Branch	Year-to-Date Hours	Year-to-Date Position Equivalent	Year-to-Date Pay	Year-to-Date Pay	Year-to-Date Pay
Appellate	477.70	0.23	\$12,940.82		
Admin	774.80	0.37	\$20,780.68		
IT	0.00	0.00	\$0.00		
Exec	783.00	0.38	\$48,283.51		
Field Operations	2,158.50	1.04	\$98,282.37		
Total	4,194.00	2.02	\$180,287.38		

CUIAB

<p>OVERTIME FY 10-11 07/11 through 8/11</p>
--

OFFICE	HOURS		TOTAL	%	Annual Position Equiv.	TOTAL Dollars
	OT - Cash	CTO - Time				
Fresno	49.25	0.00	49.25	0.9%	0.02	1,217.41
Inglewood	476.25	0.00	476.25	8.3%	0.23	13,622.35
Inland	591.25	0.00	591.25	10.3%	0.28	16,552.75
Los Angeles	300.50	0.50	301.00	5.3%	0.14	9,176.90
Oakland	393.50	0.00	393.50	6.9%	0.19	12,969.52
Orange County	78.00	0.00	78.00	1.4%	0.04	2,488.22
Oxnard	10.00	0.00	10.00	0.2%	0.00	304.30
Pasadena	408.00	8.50	416.50	7.3%	0.20	13,675.14
Sacramento	628.75	10.00	638.75	11.2%	0.31	17,589.18
San Diego	68.00	8.50	76.50	1.3%	0.04	2,106.68
San Francisco	0.00	0.00	0.00	0.0%	0.00	0.00
San Jose	146.00	0.00	146.00	2.6%	0.07	4,827.22
RSU	331.00	0.00	331.00	5.8%	0.16	9,544.95
Chief	52.75	0.00	52.75	0.9%	0.03	1,732.06
FO TOTAL	3,533.25	27.50	3,560.75	62%	1.71	105,806.68
EXEC	145.50	0.00	145.50	2.5%	0.07	5,896.62
AO	1,266.50	0.00	1,266.50	22.1%	0.61	35,063.67
ADMIN SERV	285.00	15.00	300.00	5.2%	0.14	12,425.13
IT	449.25	0.00	449.25	7.9%	0.22	17,823.23
Grand Total	5,679.50	42.50	5,722.00	1.00	2.75	177,015.33

2011-2012
CUIAB QUARTERLY BUDGET REPORT

EARNINGS

Base and Overbase Estimates

		SALARY/WAGE	BENEFITS	OE&E	TOTAL
BASE		\$ 52,313,733	\$ 19,943,555	\$ 11,073,503	\$ 83,330,791
TRF TO OE&E		\$ (9,702,979)		\$ 9,702,979	\$ -
OVERBASE EARNINGS @ 100%					
1st Quarter	Estimate	\$ 3,521,829	\$ 1,342,626	\$ -	\$ 4,864,455
2nd Quarter	Estimate	\$ 3,497,176	\$ 1,333,228	\$ -	\$ 4,830,404
3rd Quarter	Estimate	\$ 3,378,272	\$ 1,287,898	\$ -	\$ 4,666,170
4th Quarter	Estimate	\$ 3,613,400	\$ 1,377,536	\$ -	\$ 4,990,935
OB TOTAL @ 100%		\$ 14,010,676	\$ 5,341,287	\$ -	\$ 19,351,963
TOTAL BUDGET @ 100% OB		\$ 56,621,430	\$ 25,284,842	\$ 20,776,482	\$ 102,682,754
OB REDUCTION @ 32%		\$ (3,356,431)	\$ (1,279,572)		\$ (4,636,003)
TOTAL BUDGET @ 32% OB		\$ 53,264,999	\$ 24,005,271	\$ 20,776,482	\$ 98,046,752

EXPENDITURES

July-August -/Actuals and September-June/Estimates

		SALARY/WAGE	BENEFITS	OE&E	TOTAL
1st Quarter	Estimate	\$ 13,557,344	\$ 5,168,464	\$ 5,113,642	\$ 23,839,449
2nd Quarter	Estimate	\$ 13,519,279	\$ 5,153,952	\$ 5,113,642	\$ 23,786,873
3rd Quarter	Estimate	\$ 13,405,085	\$ 5,110,418	\$ 5,113,642	\$ 23,629,145
4th Quarter	Estimate	\$ 13,290,892	\$ 5,066,884	\$ 5,113,642	\$ 23,471,417
TOTAL		\$ 53,772,600	\$ 20,499,718	\$ 20,454,566	\$ 94,726,884

BALANCE

Fiscal Year End Estimates

		SALARY/WAGE	BENEFITS	OE&E	TOTAL
TOTAL - 100% OB	Estimate	\$ 2,848,830	\$ 4,785,124	\$ 321,916	\$ 7,955,870
TOTAL - 32% OB	Estimate	\$ (507,601)	\$ 3,505,552	\$ 321,916	\$ 3,319,868

ASSUMPTIONS:

1. Workload/Earnings remain consistent with the October 2011 Revise Forecast
2. Expenditures remain consistent with 2010-11
3. 12 RA ALJs are removed from payroll (4 ea. in the last 3 qtrs. of 11-12)
4. Includes PLP salary restoration for Non-ALJs - 8 months and ALJs - 3 months



CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
SPECIAL PROJECTS MATRIX
 November 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
EDD/CUIAB Appeal Co-Location Pilot Exploring the co-location of four CUIAB staff at EDD's LA PAC to streamline appeals registration processing.		High	Developed scope with EDD 07/2010 Connectivity established 08/2010 Equip installed 08/2010 Train staff 09/20/2010 Launch Pilot 09/27/2010 Suspended due to freeze 10/04/2010 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. 	Scanning for 2 FOs – Pasadena & LA. IT provided cost estimate to potentially expand sites. Recommend staffing up LA Pilot for statewide evaluation. Pending hiring freeze exemptions.
US Department of Labor Taskforce For nine years, CUIAB has failed to meet US DOL timeliness standards for UI appeals. California is ranked 51 st 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.		High	Appeal program review 07/27-31/2009 DOL report 02/05/2010 LW/DA 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. 	
CUIAB Network Upgrade This upgrade will double the bandwidth for faster processing of appeal data and information for ALJs and staff.	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.

TECHNOLOGY

Project & Description	Lead	Priority	Milestones	Goals	Status
<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 11/22/10 FSR completion 02/22/11 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. 	<p>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. EDD cost estimates received 08/09/2011. Project team met with EDD 10/24 to review and clarify assumptions.</p>
<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 Phase III tax implementation 10/21/2011</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. 	<p>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 1/1/2010, 01/2011, 03/2011, 04/2011 & 05/2011). Participated in three design sessions 07/08/2011 with EDD Tax, DI & IT. Tax Branch requested one final change and implementation is 10/21/2011. DIPPFL now expediting conflicting schedules for testing. Anticipate testing to begin 11/21 and implementation tentative for late 12/2011.</p>
<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	On Hold	<p>LWDA, EDD & CUIAB approved FSR & project strategy in 10/2010. Kick off 05/2011.</p>	<ul style="list-style-type: none"> - Receive appeals case documents electronically from EDD. - Eliminate internal mailing of case documents 	<p>DOL approved funding at \$404,000 for the planning phase only. Scheduling product research demos for August & September 2011. FSR is complete and on-hold to complete imaging project first.</p>
<p>Expand Auto Dialer Hearing Reminder Adding email and cell phone text features for supplemental hearing notifications.</p>	Rafael Piacencia	High	<p>Updated software. Final testing 08/2010. Implemented 09/2010. Implemented email reminders 04/2011.</p>	<ul style="list-style-type: none"> - Increase hearing attendance rate & productivity. 	<p>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>
<p>Field Office Technology Enhancements CUIAB is investing and testing use of larger sized monitors for hearing rooms and provide second monitors for support staff to toggle into SCDB without interrupting their CATS displays.</p>	Rafael Piacencia	Medium	<p>Complete procurement 02/2011.</p>	<ul style="list-style-type: none"> - Improve readability of documents on screen. 	<p>Hardware deployment continues.</p>

TECHNOLOGY cont.

Project & Description	Lead	Priority	Milestones	Goals	Status
<p>Field Office Telephone Tree Field Operators 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	<ul style="list-style-type: none"> - Reduce claimants & employers time on phones. - Standardize hearing information provided by phone. 	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.	<ul style="list-style-type: none"> - Reduce claimants & employers wait time for hearing decisions. - Provide easier electronic process for staff to calendar hearings or schedule cases. 	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. Testing underway. Implementation anticipated in 11/2011. Started business requirements gathering in Field Operations.
<p>Insight – Professional Development 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.</p>	Alberto Roldan Angela Bullard	High	Launched 10/24/2011.	<ul style="list-style-type: none"> - Provide easier access to training resources & ALJ tools. 	
<p>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.</p>	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. - Reduce the use of paper for board appeal processing and board meetings. 	The migration plan is completed and a cost model has been developed.
<p>Personal Productivity & Mobility Pilot for Board Members, Appellate & Senior Staff Testing use of new mobile, paperless technology with Board Members, six Appellate ALJs, and Senior Staff.</p>	Rafael Placencia	On Hold due to air card limitations	OCIO approval for procurement. Testing equipment with Board.		Scoped down due to GO directive on cell phone (air card) reductions.
<p>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.</p>	Rafael Placencia	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.
<p>VOIP Telephony CUJAB is exploring use of Voice Over Internet technology to provide lower cost telecommunications.</p>	Rafael Placencia Janet Magline	On Hold	09/17/2011 Completed 23 out station hearing facilities.	<ul style="list-style-type: none"> - Elimination of long distance toll calls support areas. - Consolidation of telecommunications support areas. 	On hold in 07/2011. IT staff are preparing business analysis for feasibility of further implementation.

STAFFING, FACILITIES, EQUIPMENT & OTHER

Project & Description	Lead	Priority	Milestones	Goals	Status
<p>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.</p>	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, 05/08, 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. 	With vendor contract expiring on 12/31/2011, FO staff are prepping final conversion of files through 2011.
<p>Judicial Advisory Council Established an advisory council of two Presiding Judges & three ALJs to seek input on major technology development.</p>	Lori Kurosaka Janet Maglinte	High	07/2011-Completed business requirements for case management system.	<ul style="list-style-type: none"> - Design comprehensive technology systems with input from judicial users. 	Conducting market research with software system demos. Identifying successful county court systems to tour and observe. Will revisit imaging requirements.
<p>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.</p>	Janet Maglinte	High	Business case metrics for imaging Business case metrics for case management Tested report template designs with IT.	<ul style="list-style-type: none"> - Design comprehensive technology systems with input from staff users. 	Designing & testing Appellate Operations cycle time and case aging reports.
<p>Staff Advisory Council Established an advisory council of six Field Operations staff and two Appellate staff to seek input on major technology development.</p>	Lori Kurosaka Janet Maglinte	High		<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. 	Initial meeting will be scheduled week of 1/11/2011. First assignment is to redesign a smart appeal form.
<p>Transforming CUIA 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.</p>	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 05/10/2011. Deliverable1 completed 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. 	



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

VIRGINIA L FARGHER
Claimant

PAYCHEX NORTH AMERICA
c/o UCEXPRESS
Account No.: 233-8325
Employer-Appellant

Case No.: AO-238561 (EUC) Remand

OA Decision No.: 3461898
EDD: 0410 BYB: 09/06/2009

DECISION

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

ROBERT DRESSER

ROY ASHBURN

ALBERTO TORRICO

DENNIS HOLLINGSWORTH

BONNIE GARCIA

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.

UCEXPRESS
P O BOX 23020
OAKLAND, CA 94623

Date Mailed:

NOV 07 2009

Case No.: AO-238561
Claimant: VIRGINIA L FARGHER

REM

The employer appealed from the order of the administrative law judge that denied the employer's application to reopen a decision that dismissed the employer's appeal pursuant to section 5067(e), title 22, California Code of Regulations.

ISSUE STATEMENT

The issue before us is whether the employer had good cause for failing to appear at the hearing scheduled on the employer's appeal.

FINDINGS OF FACT

The employer appealed from a notice of determination/ruling that held the claimant not disqualified for benefits under section 1256 of the Unemployment Insurance Code and ruled the employer's reserve account was not relieved of benefit charges. A hearing on the appeal was scheduled for September 22, 2010. On September 3, 2010, a notice of that hearing was sent to the parties.

By a communication faxed to the office of appeals on September 17, 2010, the employer's agent requested a reset of the hearing on the ground that the employer's "true first hand witness," a female hereinafter referred to as "DM", would be unavailable for two weeks after September 17, 2010 due to that witness relocating from California "to the East Coast." The request was denied on September 17, 2010. The employer did not appear at the hearing.

A decision was issued on September 24, 2010, that dismissed the employer's appeal due to such nonappearance. The employer's agent timely filed an application to reopen the matter on October 1, 2010. The application repeated the reasons provided for the reset request and added that DM had been unable to appear at the hearing "via phone" and the employer had been "unable to secure a secondary witness due to personal time off that had been scheduled." A hearing on that application was

scheduled for October 26, 2010. A notice of that hearing was mailed to the parties on October 7, 2010.

On October 11, 2010, the employer's agent faxed to the office of appeals a request for a reset of the October 26, 2010 hearing on the ground that a male witness, hereinafter referred to as "JH," would be "on vacation" on October 26, 2010, and therefore "unable to attend" the hearing. The request contained the following contention: "We have confirmed that we have no other first hand witness in this separation." The request was denied.

On October 22, 2010, the employer's agent faxed to the office of appeals a request that the employer's "first hand witness," DM, be allowed to participate in the October 26, 2010 hearing by telephone because DM had relocated to Pennsylvania from California. The request also contained the following contention: "There is not a local manager associated with this separation now in California." The request was granted.

DM testified by phone at the October 26, 2010 hearing as to the following. DM on September 17, 2010 began a motor vehicle trip across the country in order to relocate to New Jersey. DM completed that trip on September 24, 2010. DM was on a preapproved vacation leave during that trip. The employer knew on or about September 10, 2010 that DM would be on leave at the time of the hearing scheduled for September 22, 2010.

The administrative law judge at the October 26, 2010 hearing failed to make sufficient inquiry as to the importance of DM's testimony to an effective presentation of the employer's position on the case at the September 22, 2010 hearing, whether the employer by reasonable efforts could have arranged to have DM participate in the September 22, 2010 hearing by telephone, and whether the employer by reasonable efforts could have arranged to have some other individual adequately substitute for DM at the September 22, 2010 hearing. The administrative law judge also made no inquiry concerning the apparent inconsistencies in the employer's September 17, 2010, October 1, 2010, October 11, 2010, and October 22, 2010 communications concerning the case and the identity of its "true first hand" witness. It was not otherwise established whether DM might have been accessible to testify by telephone during the September 22, 2010 hearing and whether some other employee of the employer could have effectively substituted for DM at the September 22, 2010 hearing.

The administrative law judge's order denied the employer's application to reopen upon the stated rationale that by failing to either arrange for DM to

participate in the September 22, 2010 hearing by telephone or submit for that hearing a written declaration from DM in lieu of DM's testimony, the employer essentially deprived itself of good cause for its failure to appear at the September 22, 2010 hearing.

REASONS FOR DECISION

A party appears in the hearing by: (a) being present on the record at the hearing; (b) participating by electronic means on the record in an electronic hearing; (c) filing a statement that the party intends to constitute its appearance that the administrative law judge receives by the time of a hearing and does not exclude under rule 5062(j); or (d) interrogatories or deposition if so ordered by an administrative law judge pursuant to rule 5062(k). (California Code of Regulations, title 22, section 5061.)

In practice, this agency typically refers to statements submitted pursuant to regulation section 5061 as "written declarations" or "written statements." A written declaration includes a signed attestation under penalty of perjury that it is true, whereas a written statement does not include such an attestation. For purposes of this decision, each such document is hereinafter referred to as "statement."

A party shall arrange for its witnesses to participate in the hearing. (California Code of Regulations, title 22, section 5058(a).)

An administrative law judge may issue a notice to attend, a notice to attend and produce, a subpoena, or a subpoena duces tecum on his or her own motion, and shall do so upon the proper application of a party. (California Code of Regulations, title 22, section 5058(b).)

An application for a notice to attend or a subpoena shall include the name of the witness and a showing of the need therefor. An application for a notice to attend shall also include the address of the witness. (California Code of Regulations, title 22, section 5058(c).)

An appeal dismissed for nonappearance may be reopened if the appellant shows good cause for failing to appear at the hearing. (California Code of Regulations, title 22, section 5067(e).)

If a party to an appeal fails to appear in any day of a hearing and a decision is issued which is adverse to the party's interest, the decision may be vacated if the party shows good cause for failing to appear. (California Code of Regulations, title 22, section 5068(d).)

"Good cause" means a substantial reason under the circumstances, considering the diligence of the proponent and any burden or prejudice to any person involved. Good cause includes, but is not limited to, mistake, surprise, inadvertence, or excusable neglect. (California Code of Regulations, title 22, section 5000(hh).)

"Hearsay evidence" is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated. (Evidence Code, section 1200.)

Testimony given at the hearing under oath and subject to cross-examination is generally entitled to greater weight than hearsay statements, whether or not such statements are signed under penalty of perjury. (Precedent Decisions P-B-218, P-B-293, and P-B-378.)

The taking of evidence in a hearing shall be controlled by the administrative law judge in a manner best suited to ascertain the facts and safeguard the rights of the parties. (California Code of Regulations, title 22, section 5062(m).)

Precedent Decision P-B-365 involves circumstances generally similar to the instant case and offers some guidance on the issue at hand. In P-B-365, the claimant's appeal was dismissed because the claimant failed to appear at a hearing scheduled for 1 p.m. on the claimant's appeal. At or about noon on the day of the hearing it became necessary for the claimant to transport his girlfriend's eight-year old daughter to the hospital for treatment of an injury. At approximately 12:40 p.m. the claimant telephoned the office where the hearing was to be held in an unsuccessful attempt to speak to the administrative law judge assigned to the case. At that time the claimant explained to the office staff the reasons for the claimant's imminent nonappearance at the hearing. The claimant's appeal was dismissed due to the claimant's nonappearance at the hearing. Although the claimant's application to reopen the appeal was denied by an administrative law judge, the Appeals Board reversed that order and held that good cause existed to reopen the appeal. In doing so, the Appeals Board recognized "the desirability of having disputes under the Unemployment Insurance Code decided on their merits," the claimant's diligence in making a reasonable effort to notify the administrative law judge as to the reasons for his nonappearance "as soon as the facts of his situation could be communicated," and the exigent circumstances that rendered such nonappearance "excusable." P-B-365 also specifically referenced, with approval, a prior Appeals Board decision in which an

employer was held to have shown good cause for failing to appear at a hearing "where a continuance had been sought by telegram shortly before the hearing because an important witness could not be present."

We are unwilling to decide this matter on the basis of the limited record thus far created. The administrative law judge did not conduct a sufficient inquiry into the circumstances surrounding the employer's failure to appear at the September 22, 2010 hearing. Pursuant to the considerations set forth in P-B-365, the employer has the burden of showing that DM was an important witness at the September 22, 2010 hearing and that the employer could not by reasonable efforts have arranged for DM to testify by phone during that hearing. The record is unclear on these two questions. The apparent inconsistencies in the employer's communications as to the identity of its "true first hand" witness are also unexplained. These questions will need to be fully addressed at a further hearing before the employer's application to reopen can be fairly and properly decided.

While this case will therefore be remanded for further proceedings, we would be remiss if we did not take this opportunity to address certain faulty suppositions underlying the administrative law judge's offered rationale for denying the employer's application to reopen.

First, the administrative law judge implicitly assumes that because DM was an employee of the employer, it was necessarily within the employer's power to require that DM participate in the September 22, 2010 hearing by telephone notwithstanding the fact that DM was on leave and involved in a cross-country relocation. However, no factual foundation for this hypothesis was ever established. While it was the employer's obligation under regulation 5058 to arrange for DM's participation in the hearing and the employer on or after September 17, 2010 might have requested a subpoena from the office of appeals to compel DM's participation in the hearing by telephone once the employer knew that its reset request was denied, the administrative law judge failed to make any inquiry on this subject and the record is otherwise devoid of an explanation for the employer's failure to pursue a subpoena. A party is generally expected to seek a subpoena for the purpose of securing at the hearing the testimony of an important witness who is unwilling or unable to voluntarily appear, but the extent to which a failure to make such a request might affect the decision on an application to reopen must depend upon an examination of the pertinent circumstances. It might not be reasonable to require an employer to seek a subpoena concerning an employee who is on leave

due to a serious medical condition, jury duty, a death in the immediate family or other pressing reasons.

We recognize that employers on occasion succeed in obtaining telephone testimony from an employee who is on leave from work, but those instances cannot reasonably justify a policy of general application that would compel every employer to make any employee on leave available for testimony by telephone at a time and date specified by this agency. Whether or not an employer can reasonably be expected to make an employee on leave available to testify by telephone must depend upon an analysis of all the relevant facts involved. Those facts might well include, but are not limited to, when the employee's leave request was submitted, when such request was granted, the reason for the leave, the reasonable accessibility of the employee by telephone at the time and date of the hearing, whether under the existing circumstances the employer could be reasonably expected to request a subpoena that would compel the employee's testimony by telephone, whether such a request was promptly made by the employer, whether good cause existed for any failure to make such a request, and whether arranging for such testimony would otherwise unduly burden either the employer or the employee. No such analysis took place in this case.

Second, we note that the denial of the application to reopen was also founded, at least in part, upon the rationale that the employer's failure to submit a statement from DM in lieu of an appearance by DM in person or by phone deprived the employer of good cause for not appearing at the hearing. That rationale, however, is without a legitimate basis and contravenes both the regulation governing appearances at hearings and our agency's published instructions to the public on this subject. Regulation section 5061 permits a party to appear in a hearing by filing a statement if the party intends the statement to constitute its appearance, the statement is received by the administrative law judge by the time of the hearing, and the statement is not excluded by the administrative law judge as being otherwise untimely. However, the election to appear at the hearing by means of such a statement is clearly set forth in the regulation merely as an option rather than as a default requirement. Furthermore, the hearing information pamphlet that is provided by this agency to parties with their notice of hearing advises the parties of their options with regard to appearing at the hearing in the event that their request to change the date or time for the hearing is denied. That pamphlet describes the risks associated with each option. The pamphlet does not advise that declining to appear by a statement will in any way affect the decision on any subsequent application to reopen filed by the party. While we recognize

that statements are frequently submitted at hearings from various individuals who are unwilling or unable to testify in person or by phone, we do not believe that a party can be fairly required to submit a statement in lieu of an appearance in person or by phone by the party or an important witness. An appearance by a statement is neither in principle nor practicality the equivalent of an appearance in person or by phone.

In principle, a statement does not have the same legal status as sworn testimony presented in person or by phone and subject to questioning. By its very nature, i.e. an out of hearing statement offered to prove the truth of the matter stated, such a statement represents a hearsay statement that is, pursuant to the long-standing legal principles recognized in Precedent Decisions P-B-218, P-B-293 and P-B-378, generally subject to receiving less weight than sworn testimony presented in person or by phone.

In practicality, an appearance by statement is also not the equal of an appearance in person or by phone. A party who appears in person or by phone can hear and respond to whatever is said, answer questions, provide elaboration or clarification to testimony as needed, refute allegations made by opposing parties, question any witness who participates in the hearing, and provide a closing argument that addresses the facts, issues and assertions that were brought out during the hearing. In comparison, it is often quite difficult for a party who appears solely by way of a statement to accurately anticipate and adequately address in that statement every fact, issue, allegation and question that might arise during the hearing. An appearance by a statement thus constitutes a generally far less effective means of protecting and advancing a party's interests at a hearing than an appearance in person or by phone.

Moreover, under regulation sections 5067(e) and 5068(d), a party who appears by a statement is thereafter precluded from applying to reopen or vacate the decision following the hearing. These procedural remedies are only available to a party who does not appear in any way at the hearing. Thus, any policy or practice that effectively requires a party to appear by a statement if its reset and phone hearing requests are denied presents that party with an unfair dilemma. The party is faced with the discomforting choice of either appearing by the generally inferior method of a statement and thus foregoing the right to be heard on an application to reopen or vacate, or not appearing and later filing an application to reopen or vacate that will be denied on the ground that the party should have submitted a statement instead of not appearing. We do not believe that our appeals process should be permitted to function in such an unfair fashion.

We therefore confirm that a party who was denied the opportunity to appear in person or by phone should not thereafter be denied reopening merely because that party declined to appear at the hearing by way of the generally inferior means of a statement. Our conclusion on this procedural point should not be interpreted as a pronouncement that a statement must necessarily be discounted as credible evidence. The decision as to the value and credibility to be attached to the assertions contained in any such statement remains within the authority of the administrative law judge assigned to the case. As we recognized in Precedent Decision P-B-235, hearsay evidence, though of lesser probative value than testimony under oath, is admissible for whatever weight the administrative law judge deems it to be worth. Our decision in this matter only addresses the extent to which a party's election not to utilize such a method of appearance should affect the consideration of an application to reopen later submitted by that party.

The question of what constitutes good cause for failing to appear at a hearing similarly arises in cases wherein the party who fails to appear at the hearing is not the appellant and therefore files an application to vacate under regulation section 5068(d). Although this case involves an application to reopen rather than an application to vacate, the principles and considerations described above apply equally to decisions on applications to vacate.

For the reasons described above, we believe that a further hearing must be scheduled on the employer's application to reopen.

DECISION

The administrative law judge's order denying the employer's application to reopen is set aside and the case is remanded to an administrative law judge for a further hearing to determine whether the employer had good cause for its failure to appear at the first scheduled hearing on September 22, 2010. If good cause is found, the decision of the administrative law judge dismissing the employer's appeal for nonappearance shall be set aside and the matter reopened for a hearing and decision on the merits. If good cause is not found and the employer's application to reopen is denied, the decision dismissing the appeal for nonappearance shall stand as issued. In such case, the employer will have the right to appeal the order denying the application for reopening. In any event, the hearing transcripts, audio recordings, exhibits and other documents produced in the course of these proceedings shall remain a part of the record in this case.

REMAND INFORMATION

The Board's decision remands the case to an administrative law judge for appropriate action as set forth in the decision.

The matter is being referred to the **SACRAMENTO OFFICE OF APPEALS** at:

**2400 VENTURE OAKS WAY STE 100
SACRAMENTO CA 95833
(916) 263-6706**

Any future correspondence should be addressed to that office. It is important that you notify the above office of any change in your address.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD



SACRAMENTO OFFICE OF APPEALS
2400 Venture Oaks Way, Ste 100
SACRAMENTO CA 95833

(916) 263-6706

VIRGINIA L FARGHER
Claimant

PAYCHEX NORTH AMERICA
c/o UC EXPRESS
Account No: 233-8325
Employer-Appellant

Case No. **3461898 (EUC) - Reopened**
(Formerly Case No. 3393242)

Issue(s): 1030/32, 5067, 1256

Date of Application to Reopen: 10/01/2010

EDD: 0410 BYB: 09/06/2009

Date and Place of Hearing(s):
(1) 10/26/2010 SACRAMENTO

Parties Appearing:
Claimant, Employer

DECISION

The decision in the above-captioned case appears on the following page(s).

The decision is final unless appealed within 20 calendar days from the date of mailing shown below. See the attached "Notice to Parties" for further information on how to file an appeal. If you are entitled to benefits and have a question regarding the payment of benefits, call EDD at 1-800-300-5616.

Gregory L. Windheim, Administrative Law Judge

FILE COPY

Date Mailed:

Case No.: 3461898
CLT/PET: Virginia L. Fargher
Parties Appearing: Claimant, Employer
Parties Appearing by Written Statement: None

Sacramento Office of Appeals
ALJ: Gregory L. Windheim

ORDER DENYING APPLICATION TO REOPEN APPEAL

The appeal was dismissed because the appellant failed to appear in a scheduled hearing. The appellant filed an application to reopen the appeal. A hearing was held to consider the application.

This matter was previously set for hearing on Wednesday, September 22, 2010. The appellant received the notice of the hearing on or around the time it was mailed on September 3, 2010. The employer's representative contacted the appeals office five days before the hearing and sought to have the hearing reset due to the unavailability of a witness who was in the process of moving. The request was denied based on that the appellant had not shown why the witness could not appear by phone. Neither the employer nor its representative appeared at the hearing on the September 22, 2010, although the claimant did, and the matter was dismissed.

In the hearing on October 26, 2010, the employer's witness who could not appear at the first hearing appeared and testified that the employer knew of her intended move for several weeks prior to the date in which she moved. The employer made no effort to attend the first hearing, submit any written declaration on behalf of the witness at the first hearing, or arrange for the witness to appear by phone at the first hearing.

California Code of Regulations, title 22, section 5067(e) provides an application to reopen an appeal shall be denied unless good cause for reopening has been shown. The appellant has not shown good cause for failing to appear in the hearing. The application to reopen the appeal is denied. The decision dismissing the appeal remains in effect.

SCRSU:ga/gfw

DECISIONS WERE MAILED TO THE FOLLOWING

VIRGINIA L FARGHER
4618 VOLO MINE RD
DIAMOND SPRINGS, CA 95619-9307

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