

October 2009

ARRA: Extending the Unemployment Insurance Safety Net to Victims of Domestic Violence

Recent changes to the unemployment insurance system as a result of the federal stimulus legislation have expanded an important safety net for victims of domestic and sexual violence who lose jobs as a result of the violence against them. The American Recovery and Reinvestment Act of 2009¹ (ARRA) included several provisions for modernizing state unemployment insurance systems, such as providing access to unemployment insurance benefits to various groups who were not previously covered by state laws, including victims of domestic violence. Under ARRA, the federal government provided incentive payments to states that chose to make changes to their unemployment insurance systems. Many state unemployment insurance funds were depleted as a result of a high number of unemployment insurance claims that began to rise with the economic downturn last year. In fact, “[s]ince the start of the recession in December 2007, the number of unemployed persons has increased by 7.6 million to 15.1 million, and the unemployment rate has doubled to 9.8 percent.”² In September 2009, the number of people claiming unemployment insurance benefits in state programs was 5,054,617, up from 3,018,976 one year earlier.³

As explained below, in response to ARRA many states changed their laws to expand access to unemployment insurance benefits to victims of domestic violence. Unfortunately, over 15 states have yet to take the opportunity to extend eligibility (in the ARRA or other contexts), thus denying many victims, already in precarious situations, an important source of financial stability as they try to escape the violence in their lives.

Effects of Domestic and Sexual Violence and Stalking on Employment

The economic downturn has made finding or maintaining employment particularly difficult for victims of domestic and sexual violence and stalking, forcing many to make a difficult choice between keeping a job or keeping safe. Millions of Americans, particularly women and children, are victims of domestic and sexual violence and stalking, which has significant consequences for their economic security. For instance, one in four women will be subjected to domestic violence in her

¹ Pub. L. No. 111-5, Division B, Title II, Sec. 2003 (Jan. 6, 2009).

² U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, THE EMPLOYMENT SITUATION -- SEPTEMBER 2009 (Oct. 2, 2009), available at <http://www.bls.gov/news.release/pdf/empsit.pdf>.

³ U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, UNEMPLOYMENT INSURANCE WEEKLY CLAIMS REPORT (Oct. 1, 2009), available at <http://www.dol.gov/opa/media/press/eta/ui/current.htm>.

lifetime.⁴ Eighteen percent, or approximately 20 million U.S. adult women have been raped.⁵ One in 12 women has been stalked in her lifetime, and the stalker is most likely a former intimate, friend, roommate or neighbor.⁶ Unfortunately, recent news reports indicate that the incidence of domestic and other forms of violence are increasing as the economy worsens.⁷

Employment is crucial to a victim being able to separate from an abusive situation. With a job and source of income separate from an abuser, a victim can find a safe place to live, pay for alternative child care arrangements, new forms of transportation, medical costs, and legal bills. But in these days of economic uncertainty, many victims are too afraid of losing desperately needed jobs to pursue legal remedies, seek medical treatment, or to take other essential steps to secure their safety. Employers often fire victims who reveal that they are victims of violence or who ask for assistance dealing with the violence. Two recent studies of partner stalking of victims found that between 15.2 and 27.6 percent of women reported that they lost a job due, at least in part, to domestic violence.⁸ Similarly, almost 50% of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.⁹ A recent Department of Justice study reveals that more than half of victims surveyed lost five or more days from work, and 130,000 victims reported that they had been fired from or asked to leave their jobs because of the stalking.¹⁰

When victims are fired or leave a job due to the violence, they frequently return to their abuser for economic support if they are unable to find another source of income, such as unemployment insurance benefits. Accordingly, the incentive provisions in ARRA to extend eligibility for benefits to victims of domestic violence were an important and necessary step to enhancing the economic security of vulnerable women and children.

⁴ PATRICIA TJADEN & NANCY THOENNES, NATIONAL INSTITUTE OF JUSTICE AND THE CENTERS OF DISEASE CONTROL AND PREVENTION, EXTENT, NATURE AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY (2000).

⁵ DEAN G. KILPATRICK, ET AL., U.S. DEPARTMENT OF JUSTICE/NCJRS, DRUG-FACILITATED, INCAPACITATED, AND FORCIBLE RAPE: A NATIONAL STUDY (July 2007).

⁶ KATRINA BAUM, BUREAU OF JUSTICE STATISTICS, STALKING VICTIMIZATION IN THE UNITED STATES: NATIONAL CRIME VICTIMIZATION SURVEY (Jan. 2009).

⁷ See, e.g., Carrie Weil, *Domestic Violence Increase Tied to Economic Downturn*, WAVE 3 TV (Louisville, KY), June 12, 2009; Mary R. Lauby and Sue Else, *Recession Can Be Deadly For Domestic Abuse Victims*, THE BOSTON GLOBE, Dec. 25, 2009.

⁸ TK Logan, et. al., *Partner Stalking and Implications for Women's Employment*, 22 J. INTERPERSONAL VIOLENCE 268 (2007); Nancy Glass, *Community Partnered Response to Intimate Partner Violence*, Funding provided by NIH/NINR (9/04-5/09), research on file with Legal Momentum.

⁹ U.S. GEN. ACCT. OFFICE, DOMESTIC VIOLENCE PREVALENCE AND IMPLICATIONS FOR EMPLOYMENT AMONG WELFARE RECIPIENTS 19 (Nov. 1998); S. Rep. No. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. ABNORMAL PSYCHOLOGY 264 (1981)).

¹⁰ KATRINA BAUM, BUREAU OF JUSTICE STATISTICS, STALKING VICTIMIZATION IN THE UNITED STATES: NATIONAL CRIME VICTIMIZATION SURVEY (Jan. 2009).

ARRA Provision on Domestic Violence

ARRA included a provision that grants states extra funding in exchange for extending eligibility for unemployment insurance benefits to part-time workers and/or workers who leave jobs for “compelling family reasons,” including domestic violence. That language provided:

An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term “compelling family reason” means the following:

Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual’s continued employment would jeopardize the safety of the individual or of any member of the individual’s immediate family (as defined by the Secretary of Labor).¹¹

ARRA only provides incentives for extending eligibility to victims of domestic violence, but not sexual violence or stalking. States that extended coverage to victims who left jobs because of those two crimes did not receive ARRA funds for doing so. However, as of October 2009, the Senate and House had introduced bills that would extend unemployment insurance benefits and would update ARRA to allow victims of sexual assault who have separated from work to be eligible for benefits under the “compelling family reasons” clause as well.¹²

ARRA’s Effect on State Unemployment Insurance Laws

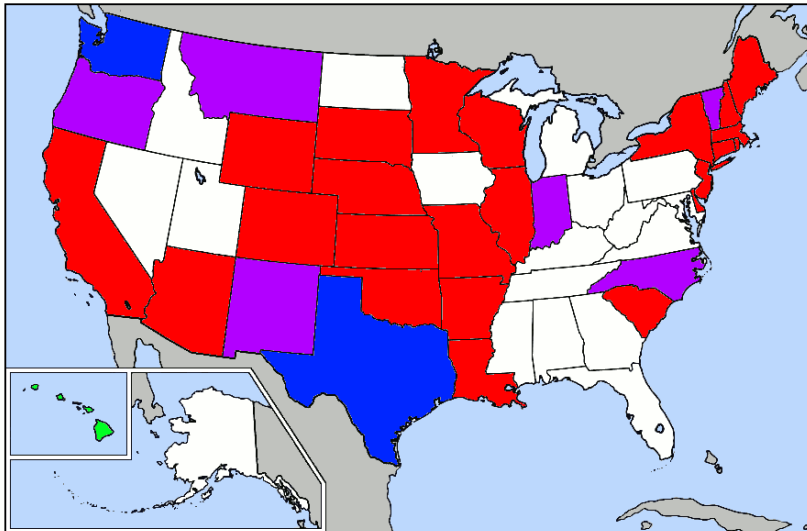
Before ARRA was signed by President Obama in February 2009, 29 states and the District of Columbia had enacted laws explicitly to provide unemployment insurance to domestic violence victims in certain circumstances. Two states (Texas and Washington) extended eligibility to victims of stalking in addition to victims of domestic violence. Six states (Indiana, New Mexico, Montana, North Carolina, Oregon, and Vermont) extended eligibility to victims of sexual violence and stalking in addition to victims of domestic violence.

Following ARRA, 33 jurisdictions have laws extending access to unemployment insurance benefits to victims. Thirteen states that already had laws providing eligibility to victims amended their laws to varying degrees to conform to ARRA’s language. Three states – Arkansas, Missouri and Hawaii – enacted entirely new provisions as a result of ARRA. Twenty-four jurisdictions now extend access to unemployment insurance to victims of domestic violence only. Hawaii extends eligibility to victims

¹¹ Pub. L. No. 111-5, Division B, Title II, Sec. 2003(a). The federal Department of Labor subsequently issued a program letter to state workforce agencies regarding implementation of the unemployment insurance provisions of ARRA. The Department of Labor advised that the term “immediate family” must, at a minimum, include spouses, parents and minor children under the age of 18. U.S. Department of Labor, Employment and Training Administration Advisory System, Unemployment Insurance Program Letter No. 14-09, Attachment III, at III-12 (Feb. 26, 2009) (DOL Program Letter), available at <http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09.pdf>.

¹² See H.R. 3548, the Emergency Unemployment Compensation Extension Act of 2009.

of domestic and sexual violence. Two states (Texas and Washington) extend eligibility to victims of stalking in addition to victims of domestic violence. Six states (Indiana, New Mexico, Montana, North Carolina, Oregon, and Vermont) extend eligibility to victims of sexual violence and stalking in addition to victims of domestic violence. (For specific information about each of these laws and pending legislation, *see* Legal Momentum’s guide at <http://www.legalmomentum.org/our-work/domestic-violence/state-law-guides.html>).



(Red: Domestic violence only) (Green: Domestic violence and sexual assault only)
 (Blue: Domestic violence and stalking only) (Purple: Domestic violence, sexual assault and stalking)

Inadequate Access Persists

Although the extension of eligibility for benefits is a victory for victims of domestic violence and their dependent families, many victims are unable to avail themselves of this important source of income because they live or work in a state that fails to explicitly provide access to victims.

Even where states do provide coverage, however, laws vary as to whether the claimant or their family member must have been subject to or feared domestic violence, sexual assault or stalking (see map above). Moreover, each state also has different eligibility requirements, as well as different requirements regarding the forms of acceptable documentation of the violence or fear of violence.¹³ This creates significant obstacles to victims filing claims for and obtaining unemployment insurance. Furthermore, in many of the states that amended or replaced prior domestic violence-unemployment insurance provisions with language that conforms to ARRA, problems have arisen related to awareness of eligibility among victims and advocates; implementation within state agencies; and

¹³ The DOL Program Letter advises that one instance of documentation that adequately verifies the claimant’s belief is sufficient, and that to require multiple forms of documentation would defeat the purpose of the provision in ARRA. Forms of acceptable documentation include: an active or recently issued protective or other order; a police record documenting recent domestic violence; a statement concerning recent domestic violence from a qualified professional from whom the victim has sought assistance such as a counselor, shelter workers, member of the clergy, attorney or health worker. *See* DOL Program Letter, Attachment III, at III-11.

agencies' processing of claims of victims of domestic or sexual violence or stalking. Attorneys, employers, unions, advocates and direct service providers would be well advised to check if their state's unemployment insurance law changed concerning domestic violence as a result of ARRA, and to work with their state's department of labor to ensure that relevant groups are made aware of the changes and that the changes are properly implemented.

For further information, contact: Lisalyn Jacobs, Vice-President for Government Relations, at (202) 326-0042 or ljacobs@legalmomentum.org; or Maya Raghu, Senior Staff Attorney, at (212) 413-7532 or mraghu@legalmomentum.org.

Legal Momentum is the nation's oldest legal advocacy organization dedicated to advancing the rights of women and girls. Legal Momentum occupies a unique position as a multi-issue organization dedicated solely to women's rights. It is a national leader in developing and implementing litigation, advocacy, and public education strategies to open and expand opportunities for women, and to ensure that all women can build safe and economically secure lives for themselves and their families. Among its many and historic contributions to the advancement of women's rights, Legal Momentum was instrumental in the passage of the Violence Against Women Act (VAWA) and the Freedom of Access to Clinic Entrances Act (FACE).