

JOINT SENATE AND HOUSE
MINUTES OF THE _____ COMMITTEE ON LABOR, INDUSTRY AND TOURISMThe meeting was called to order by Sen. Bill Morris at
Chairperson1:30 ~~am~~/p.m. on March 1, 1983 in room 313-S of the Capitol.~~All members were present except~~

All Senate members were present.

Committee staff present:

Mark Burghart, Research Department
Bruce Kinzie, Revisor
Louise Cunningham Secretary

Conferees appearing before the committee:

Harold Heidrick, Hilltop Lodge Nursing Home, Beloit
Sharon Fellhoelter, Ness City, D&S Machine and Welding, Inc.
Kyle King, Winfield, Gott Corporation
Allan McCobb, Dodge City, South West Kansas Area Agency on Aging
Kathryn Brieto, Wichita, Restaurant Owner

Harold Heidrick is the owner of a nursing home for 100 adults. He said his experience is that many employees quit while work is available knowing that in a short time they will be available for unemployment benefits. He thinks they should remain ineligible as long as work is available. He said there had been a dramatic increase in his contribution rate which would only result in higher charges to the nursing home residents. He felt there should be a reduction in total benefits although he felt the \$163 per week benefit was not too high. Rather, there should be a decrease in the number of abuses. A copy of his statement is attached. (Attachment 1).

Sharon Fellhoelter, D&S Machine & Welding Co., Ness City said in her opinion, unemployment compensation should not be issued to anyone for voluntary quits regardless of the reason. Anyone who quits should have another job to go to to fill his expense needs for himself and his family. It is different when someone is laid off.

She related some of her experiences with the Department of Human Resources. She had recently had her first telephone hearing and said the hearing officer was rude and appeared to be biased in favor of the claimant. Mrs. Fellholter said she would not agree to another telephone hearing. She also said that no person should be able to receive benefits until a determination had been made concerning whether or not an account should be charged. If the account is not to be charged, the person should be denied benefits. She said the Department is too liberal in granting benefits before all the facts are known.

Kyle King, Winfield, Gott Corporation, said he has worked in the personnel field for five years and also serves on the KACI sub-committee so is familiar with the funding mechanism of the unemployment fund. He said most employers have two areas of concern - disqualification and gross misconduct. Employers feel as though their taxes are increased, but the employee is not seeing a corresponding decrease in benefits. Where can they draw the line? His company has very few claims and yet they had a dramatic increase in the surcharge.

He suggested that the benefits should be calculated using annual earnings rather than a single high quarter because there are times of the year when work is seasonal and there could be a lot of overtime.

Allan McCobb, Dodge City, South West Kansas Area Agency on Aging, said they deal with senior citizens' programs and their funds are very limited. He cited a specific case where an employee had been fired and began to draw benefits. Since there was no dispute on the claim, the employee could draw these benefits. Subsequently, the employee was rehired back on the job and received full back pay for the time she was laid off. This case increased their rating. Mr. McCobb was concerned that an employee could receive full back pay and at the same time collect unemployment benefits. They have been corresponding with the Department for the last six months. They cannot hire an attorney

because they do not have the funds and it is very frustrating. He wondered whether this was the intent of the law or if there was a loophole. A copy of his correspondence with Dr. Ludwick is attached. (Attachment 2).

Kathryn Brieto, Wichita restaurant owner, said that the small businessmen who pay low wages were being discriminated against. The unemployed are paid \$4.00 an hour not to work and the employer who pays \$3.35 an hour finds it hard to find employees. The employers of unskilled, part-time and students are taxed at 100% of their payrolls and they can collect a maximum benefit of only \$74. She felt there should be no ceiling on the amount on which taxes are collected and also there should be no extensions when the unemployment situation worsens. A copy of her statement is attached. (Attachment 3).

Meeting was adjourned.

Date 3-1 Place 313-S Time 1:30

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Kathryn Brito	4312 N. Edgemoor, Wichita	Restaurant Owner
Harold Heidrich	815 N. Independence	Beloit Nursing Home Adm.
Shera Jellhaetter	Box 461, 720 N. School	Mass City Dr. S. Mod. & Weld. Inc
K. Bitter	RT 1	Housing Co.
Marvin Bitter	R 1	Housing Co.
Tommy Smith	Topeka	Budget
Cathy Kiteuski	1727 Nakota	Leavenworth C. Scouts
Suzanne Lacey	30 Rose Loop Pl.	Leavenworth "
Jubei Beyajian	1031 Miss. #6 Lawrence	Security Benefit Life
Bob Hryg	Topeka	K&C
Zylo King	Winfield	Gott Corp.
Donald P. Weyman	Topeka	
Bret White	Topeka	

①

Testimony Before the Senate Labor and Industry Committee

Mr. Chairman and Committee Members:

My name is Harold Heidrick, owner-administrator of Hilltop Lodge, Inc., a 100 bed adult care facility in Beloit. I am appearing here today on behalf of the profession I work in, my nursing home, and the 75 private paying residents who live there, their families and friends.

I am concerned, as you are, with the serious problem of un-employment in our State, and where the monies will come from to fund our severely depleted account balances. However, I submit to you that there remains a great deal of abuse in the program, and a one-sided raising of rates, without a corresponding raise in the eligibility standards is neither fair nor realistic.

Exhibit I reflects my small businesses' actual experience with unemployment during the past three years. The exhibit documents the circumstances of the twenty three individuals who have applied for benefits through my facility. I find it interesting that all were under 40 years of age, 95% were single, physically able to work and were terminated or voluntarily quit, when work was available. The experience rating of this facility was not charged in any instance. I know for a fact that this type of behavior is more common than not in the some 360 adult care homes in this State. I have no experience or data on other businesses, especially those with a larger percentage of male employees, but I suspect that in all businesses', many employees quit while work is available, knowing that in a short time they will be eligible for benefits. I believe that any employee who must be dismissed for cause, or who voluntarily leaves employment, without good cause attributable to the employment, should be ineligible for benefits at that moment and remains ineligible indefinitely.

Sound financial management requires that I keep expenditures down. My account balance at the end of 1982 was \$47,621.00. My average taxable payroll for the years 1979, 1980 and 1981 was \$378,186,000 and since my payroll increases each year, (hopefully, I have been creating jobs,) I have been notified that my contribution rate for

Atch. 1

1983 is 2.47%. Because of my good experience rating my contribution rate in 1982 was .74%. This is a dramatic increase - 234%. Actual 1982 payroll figures show that at .74% I contributed \$3,137.00. If the new rate of 2.47% had been used I would have paid \$10,472.00, an increase of \$7,335.00. Raising the limit amount from \$6000 to \$7000 per individual, the new rate, and higher payroll, will result in an \$8,000.00 increase in my contribution for 1983. I have been optimistic enough not to consider a surcharge.

With that amount of money I could have hired an additional aide, thus creating a new job, instead I am faced with cutting hours, and services to our senior citizens. To meet ever escalating costs caused by regulations, the private pay residents will be charged more, thus depleting their savings, resulting in a higher percentage needing public assistance, an endless, vicious circle, but a problem for another committee to wrestle with.

In closing, I remind you that I am deeply committed to health care cost containment, I am aware of the dire financial straits of our State, and I am willing to do my part. However, such one-sided rate increases, without a corresponding reduction of benefits is untenable and unrealistic.

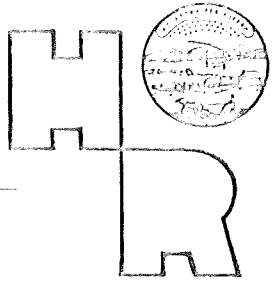
I thank you for this opportunity.

EXHIBIT 1 - Unemployment History

EMPLOYEE	APPROX. AGE	MARITAL STATUS	POSITION	REASON FOR SEPERATION	GAVE NOTICE	DATE
1.	38	M	L.P.N.	Left for personal reasons	Yes	November 1981
2.	38	M	Housekeeper	Moved to Oklahoma	Yes	October 1982
3.	21	S	Dietary	Terminated-3 unexcused absences	NO	FEBRUAY 1981
4.	36	M	Med.Aide	Moved to Colora do	Yes	December 1981
5.	25	M	Nurse Aide	Quit to stay home, wanted to get pregnant	No	February 1983
6.	25	S	Nurse Aide	Terminated-3 unexcused absences Moved out of State	No	January 1982
7.	30	M	Nurse Aide	Moved to another town	Yes	July 1982
8.	21	S	Nurse Aide	Moved to Wichita to work at Cessna	Yes	April 1981
9.	21	S	Nurse Aide	Moved to K.C. Mo. to be around family	Yes	May 1982
10.	36	M	Nurse Aide	Quit to stay home with kids-"Tired of Working"	Yes	October 1981
	17	S	Dietary	Terminate-3 unexcused absences	No	February 1983
12.	20	S	Nurse Aide	Quit to work at Hospital	Yes	October 1981
13.	38-	S	Housekeeper	Moved to another city. Had another job "lined up"	Yes	June 1983
14.	38	M	Nurse Aide	Quit to work at hospital	Yes	November 1981
15.	23	S	Housekeeper	Resigned after counselling by Administrator about performance.Lives in Beloit, pregnant and receiving public assistance.	No	February 1982
16.	25	S	Nurse Aide	Terminated for verbal abuse of resident and supervision. Moved to another city	No	January 1983
17.	23	M	Nurse Aide	Quit to work at packing plant	Yes	November 1980
18.	21	S	Nurse Aide	Terminated-3 unexcused absences	No	July 1981
19.	21	S	Nurse Aide	Quit to return to college	Yes	March 1981
20.	21	S	Orderly	Quit to return to college	Yes	January 1981
21.	31	S	Dietary	Quit for personal reasons	No	May 1980
22.	35	M	Dietary	Quit for health reasons	No	July 1982
	21	S	Nurse Aide	Quit for personal reasons	Yes	May 1980

The experience rating of this facility was not charged in any case.

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KANSAS DEPARTMENT OF
Human Resources
OFFICE OF THE SECRETARY

401 TOPEKA AVENUE TOPEKA, KANSAS 66603
913-296-7474

February 2, 1983

Mr. Allan P. McCobb
Executive Director
South West Kansas Area
Agency on Aging
P. O. Box 1636
Dodge City, Kansas 67801

Dear Mr. McCobb:

This is in response to your letter of January 10, 1983, addressed to the Benefit Branch of the Division of Employment and further to the letter from the Office of the Attorney General dated January 19. I will recap the claim filed by Patricia L. Russell, SSN 466-52-7563, in an effort to have an understanding as to the role of the Division of Employment with respect to the unemployment insurance claim and its handling.

This individual filed a claim for unemployment insurance effective January 10, 1982 after having been fired on January 8, 1982 from your firm.

By a determination mailed to you on February 11, 1982, it was found that this individual was cleared for payment of unemployment insurance benefits in that she was discharged, but not for a breach of a duty owed an employer. At that time the determination also stated that benefits paid on this claim will be charged to your firm's account. There was no further appeal with respect to the allowing of benefits or with respect to whether or not benefits would be charged to your account. There were several other pieces of correspondence that were mailed to you with respect to this individual and the latest correspondence of December 27, 1982 describes the conditions under which benefits were payable and were legally due this claimant.

This individual was paid benefits that were rightfully due her with respect to the weeks that she was unemployed and certified her eligibility to unemployment insurance benefits. Sometime later, this individual was reinstated by you as a result of other legal recourse and was awarded back pay. This individual was unemployed with respect to the weeks that she was paid unemployment insurance. In many cases where there is a back-pay award, the amount of unemployment insurance is usually taken into consideration by the employer. Apparently, however, this was not done in this case.

Our handling of the unemployment insurance claim is correct within the Kansas Employment Security Law and the charging of the pro rata share of benefits to this individual is correct.

If I can provide further explanation, please do not hesitate to contact me.

Sincerely yours,

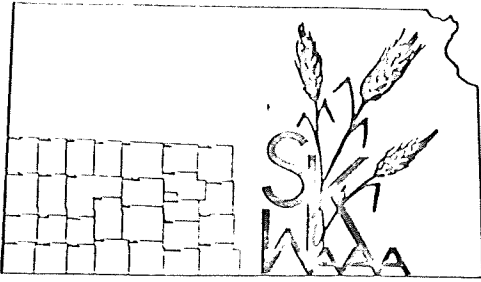
Harvey L. Ludwick, Ed.D.

Secretary of Human Resources

HLL:jlr

Atch. 2

SouthWest Kansas



Area Agency on Aging, Inc.

Information for Older Kansans

(1-800-742-9531)

1107 Sixth Avenue ♦ P.O. BOX 1636 ♦ Dodge City, Kansas 67801 ♦ (316) 225-0510

January 10, 1983

Ms. Linda Tierce
Benefit Branch Manager
Division of Employment
Kansas Department of Human Resources
401 Topeka Avenue
Topeka, Kansas 66603

RE: Response letter dated 12/27/82
Account # 131853
Patricia L. Russell
SSN: 466-52-7563

Dear Ms. Tierce:

I would have responded last week, except my Secretary was out of the office. I appreciated your sending a response to my letter of December 15th. However, I must take exception to your conclusion. At attachment #1 is a copy of your 12/27/82 letter for quick reference.

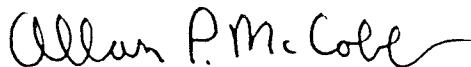
1. Paragraph 1 of your letter defines "unemployment" per K.S.A. 44-703(m). As you emphatically pointed out, to qualify for said benefit, an employee must both perform no services and have no wages payable. Please note attachment #2, a letter from Al Knatt (EEO Director, Kansas Department of Human Resources). Term #1 states specifically that employee receive no loss in pay, as pointed out per my letter of 12/15/82, Mrs. Russell received full pay per dictate of the Human Resources Department. Therefore Mrs. Russell does not meet both criteria per K.S.A. 44-703(m).
2. I cannot agree with the rationale of paragraph #4 of your letter. The first statement reaches 2 false conclusions. One, that since the claimant performed no services from January 8th thru February 22nd she was therefore unemployed during that time. Just because an employee performs no services obviously doesn't mean he/she is unemployed. He/she could be on vacation or paid leave of absence. Your second false conclusion is that because the individual performed no services, he/she therefore is eligible for benefits according to our

SERVING TWENTY EIGHT COUNTIES IN SOUTHWEST KANSAS

- law (Underlining added). That is not correct as the law also requires that no wages be payable. As explained in 1 above, wages were deemed payable by your own Department of Human Resources and they were subsequently paid by SWKAAA.
3. Since I assume second statement in paragraph 4 of your letter is correct, there must have been a reason back pay and reinstatement pay were not addressed. The logical conclusion would be that "wages payable" are wages payable even if it is so determined 10 years later. Another logical conclusion would be that the law on unemployment was established to give an unemployed individual compensation when he/she was not receiving any pay from the former employer. Of course to expect a logical, unbiased (rather than anti-employer) conclusion from the Employment Division of Human Resources is as likely as having a 100° day in January in Topeka, Kansas (just kidding?). Does it honestly seem logical that the intent of the law was to have the employer both pay wages and get zapped with unemployment? I would certainly think (and hope) not.
 4. Paragraph 5 makes reference to the original determination of February 11, 1982. Unfortunately, circumstances were not the same on February 11 as they were on February 23. On February 11, this agency did believe that Mrs. Russell was unemployed (I had fired her and had naturally assumed that was it). Therefore, there was no reason to contest the unemployment pay notice. However, on February 23rd, apples were turned into oranges and Mrs. Russell returned to work, "as though she'd never been gone" (words of Mr. Knatt of EEO) which included, of course her full salary.

When an individual is convicted of a crime he/she is considered guilty. If at a later date new evidence is brought forward to prove that individual's innocence, he/she is then determined to be innocent. In other words circumstances can change as was explained in the previous paragraph. So on February 11, SWKAAA may have been obligated for unemployment but on February 23rd that no longer was the case. We are now innocent and should not be charged for Mrs. Russell's unemployment.

Respectfully,



Allan P. McCobb
Executive Director

AM/dc

CC: Bradley Smoot, Deputy Attorney General

KANSAS DEPARTMENT OF
Human Resources
DIVISION OF EMPLOYMENT

401 TOPEKA AVENUE TOPEKA, KANSAS 66603
913-296-5000 5233

February 25, 1982

Mrs. Patricia Russell
P. O. Box 1255
Dodge City, KS 67801

Dear Mrs. Russell:

The purpose of this letter is to afford you formal notification that your complaint, Case No.: 82-02, filed with my office, wherein you named the Kansas Department on Aging and the Southwest Kansas Area Agency on Aging and their agents and representatives respondents, has been officially closed, effective February 22, 1982. The administrative closure of your case was warranted following a conciliation agreement duly agreed to by all parties concerned.

The terms of the aforementioned agreement mandate:

1. Reinstatement to your position of Fiscal Officer with the SWKAAA, effective February 23, 1982, with no loss in pay, status, privileges, benefits or any other forms of work-related terms and conditions of employment.
2. That you receive a formal letter of apology from Mr. Allan McCobb, Executive Director, for the pain, humiliation and mental anguish you incurred in connection with your unjust termination on January 8, 1982. (This has been effected.)
3. That the respondent cease and desist all practices whose effect were likely to usher forth unfair, unjust, injurious and discriminatory treatment against any employee under the respondent's charge.
4. That absolutely no form of reprisal shall be taken against the complainant (Mrs. Russell) for any statements or inquiries she made or any action she took during the course of events leading to the conciliation of the complaint, where such statements, inquiries or actions were made or taken in conjunction with her attempts to redress specific charges reflected in the text of the complaint or any matter reasonably calculated to relate thereto.
5. That all files, records, documents, papers and other kindred effects maintained by the respondent, whose continued maintenance or use by the respondent or any other person may serve to adversely affect the good name, reputation or employment status of the complainant, shall be promptly destroyed. It is further understood that failure to destroy any such source (items reflected above) of future agitation, by the respondent, will render the import of such sources null and void in any proceeding wherein the complainant is involved.

Mrs. Patricia Russell
February 25, 1982
Page Two

6. That the complainant will make every good faith effort to perform all of her designated duties and tasks in a manner beyond reproach and will exemplify behavior, during the course of carrying out those tasks and duties totally befitting a professional employee, to include according a full measure of respect to the Executive Director and all members of SWKAAA's staff. This stipulation shall not be construed to mean that the complainant shall be held solely, categorically or unilaterally responsible for maintaining a harmonious working environment at SWKAAA. This warrants special emphasis since this type of assurance requires a sustain collective effort by all SWKAAA personnel.
7. That all EEO, affirmative action and personnel policies will be revised with the technical assistance of the KDHR's EEO Section personnel and not later than March 31, 1982. Following such revision, these policies will be officially adopted, implemented and properly enforced immediately upon approval by the SWKAAA's board and the KDOA.
8. That, as evidence of good faith, on the part of the complainant, all charges registered in connection with this complaint has been totally and irrevocably retracted.

The foregoing constitute all of the substantive protections, immunities, guarantees and responsibilities secured by the conciliation agreement, which served as the basis for officially closing this case.

I commend you, Mrs. Russell, for your unbridled cooperation, without which this amicable resolution of your complaint would not have been realized.

Lastly, there exists no legal means by which I can reopen or reactivate your case. It is important, therefore, that you take advantage of the opportunities the reprieve occasioned by the conciliation agreement has afforded you.

I am fully confident that you will prevail over whatever residual components of your complaint action you may encounter during the next few weeks.

If I can be of any help to you in the future, I am only a telephone call away.

Sincerely,

Al Knatt
Al Knatt
EEO Director

AK:rrr
cc: File

*Copy to P & J
3/2/82*

CLAIMANT RUSSELL, PATRICIA L

OFFICE 630 QTR 1-82 SERIAL 131855

SSN 466-52-7563

IN ORDER TO DETERMINE ENTITLEMENT TO BENEFITS PREVIOUSLY CLAIMED, IT IS NECESSARY THAT WE COMPARE THE EARNINGS REPORTED BY THE CLAIMANT WITH WAGES PAID BY YOU. KSA 44-714(F) PROVIDES THAT THIS INFORMATION MUST BE FURNISHED UPON REQUEST. PLEASE COMPLETE AND RETURN THIS FORM WITHIN 7 DAYS IN THE ENCLOSED ENVELOPE. NO POSTAGE IS REQUIRED.

PLEASE LIST GROSS WAGES EARNED FOR THE SEVEN DAY PERIOD LISTED BELOW.

BEGINS	ENDS	TOTAL
01-17-82	01-23-82	-----
01-24-82	01-30-82	-----
01-31-82	02-06-82	-----
02-07-82	02-13-82	-----
02-14-82	02-20-82	-----
02-21-82	02-27-82	-----

PLEASE GIVE THE CLAIMANT'S DATES OF EMPLOYMENT.

FROM 8/25/80 TO Present

IF THE CLAIMANT IS NOT CURRENTLY EMPLOYED BY YOU, PLEASE GIVE THE REASON FOR SEPARATION.

N/A

PLEASE GIVE THE NAME OF A REPRESENTATIVE OF YOUR COMPANY WHO CAN PERSONALLY IDENTIFY THE CLAIMANT.

Allen P. McCobb

PLEASE GIVE THE NAME OF A REPRESENTATIVE OF YOUR COMPANY WHO CAN VERIFY THE INFORMATION SUPPLIED ON THIS FORM.

Allen P. McCobb

Allen P. McCobb

SIGNATURE

(316) 225-0510

TELEPHONE

41
S W KANSAS AGENCY AGING INC
1107 SIXTH AVENUE
DODGE CITY KS 67801

Claimant had been dismissed on 1/8/82. She was reinstated with back pay on 2/23/82. check # 542 dtd 1/8/82 for 793.87 was January pay and ch # 582 dtd 2/23/82 for 793.87 was February pay. If further questions call me. Allen P. McCobb
RECEIVED JUL 19 1982

Attach

South West Kansas



Area Agency on Aging, Inc.

Information for Older Kansans

(1-800-742-9531)

1107 Sixth Avenue • P.O. BOX 1636 • Dodge City, Kansas 67801 • (316) 225-0510

September 21, 1982

Kansas Department of Human Resources
Division of Employment
Job Insurance Benefit Branch
401 Topeka Avenue
Topeka, Kansas 66603

Dear Sir:

Note the attached copy of statement of employment we received from your office 7/19/82. Since that time I have learned that the claimant actually may have received unemployment pay for the 1/17/82-2/27/82 time period. As noted on my response the claimant had been reinstated with full pay. Please let me know if claimant did indeed receive unemployment during that time period, the total amount claimant received, and the dates and amounts of any claimant reimbursements.

Your prompt attention to this letter is appreciated.

Respectfully,

A handwritten signature in cursive script that reads "Allan P. McCobb".

Allan P. McCobb
Executive Director

AM/dc

Attach 3



KANSAS DEPARTMENT OF

Human Resources

DIVISION OF EMPLOYMENT

401 TOPEKA AVENUE TOPEKA, KANSAS 66603
913-296-5000

December 27, 1982

Reply refer to: 3102
LT:msf

Mr. Allan P. McCobb
Executive Director
S.W. Kansas Area Agency on Aging
P. O. Box 1636
Dodge City, Kansas 67801

Re: Your letter of December 15, 1982
1983 Notice of Benefit Charges
Account No. 131853
Patricia L. Russell
SSN: 466-52-7563

Dear Mr. McCobb:

The Kansas Employment Security Law, K.S.A. 44-703(m), defines "unemployment" as follows: "An individual shall be deemed "unemployed" with respect to any week during which such individual performs no services and with respect to which no wages are payable...". Underlining added.

Ms. Russell was discharged on January 8, 1982, and filed a claim on January 11, 1982.

We cleared the claimant for payment because we found that the claimant was not discharged for breach of a duty. We mailed this determination to your agency on February 11, 1982, advising you that your account would be charged for any benefits paid.

Since the claimant performed no services for your agency from January 8, 1982, until she was reinstated in February 1982, she was unemployed during that time and eligible for benefits according to our law. Our law does not specifically treat back pay or reinstatement pay awards.

We find the charges to your account to be correct since the determination mailed to you on February 11, 1982, became final without an appeal.

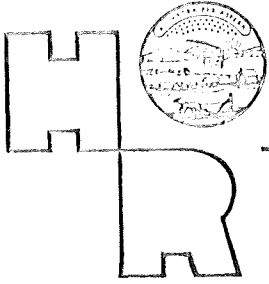
We are enclosing an informational pamphlet on Kansas Job Insurance Benefits.

If we may be of further assistance, please let us know.

Sincerely,

Linda Tierce
Benefit Branch Manager

Encl.



KANSAS DEPARTMENT OF
Human Resources
DIVISION OF EMPLOYMENT

401 TOPEKA AVENUE TOPEKA, KANSAS 66603
913-296-5000

In reply refer to: 3151
GC:tt

September 27, 1982

Allan P. McCobb
Executive Director
Southwest Kansas Area on Aging, Inc.
1107 Sixth Avenue
P.O. Box 1636
Dodge City, KS 67801

Dear Mr. McCobb:

This will acknowledge receipt of your letter dated September 21, 1982 and inform you that the information which you furnished has been taken under advisement.

Please be further advised that in accordance with the federal privacy act of 1974 and other state statutes this Agency is forbidden from furnishing any information from any claimant's file to a third party without that claimant's specific permission.

We are however grateful for your interest and support.

Respectfully,

George Clement
Manager
Benefit Payment Control

Attach 4



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION 296-3751

January 19, 1983

Harvey L. Ludwick, Secretary
Department of Human Resources
401 Topeka
Topeka, Kansas 66603

Dear Mr. Ludwick:

At the request of the Attorney General, I am writing to you in regard to a matter concerning the Southwest Kansas Area Agency on Aging, Inc., (SKAAA) which was brought to our attention by the Executive Director of this agency, Mr. Allen P. McCobb.

It appears that Ms. Patricia Russell was terminated from her employment by the SKAAA on January 8, 1982. At that time she applied for, and was granted, unemployment benefits by the Division of Employment pursuant to the Kansas Employment Security Law, K.S.A. 44-701 et seq. Accordingly, benefits paid to Ms. Russell were charged to the SKAAA's account, as provided by K.S.A. 44-710(c). However, on February 23, 1982, Ms. Russell was reinstated to her former position and granted full back pay covering the period of her unemployment.

On at least three previous occasions, Mr. McCobb has contacted the Division of Employment to explain the situation. Having received little clarification from the Division of Employment, Mr. McCobb contacted our office to seek our help in resolving the matter. Mr. McCobb does not dispute the conclusion of the Division of Employment that Ms. Russell was entitled to receive unemployment benefits for the period of January 8, 1982 through February 23, 1982. However, Mr. McCobb is concerned because at the time of her reinstatement, Ms. Russell was paid, for the aforementioned period, and in addition, is being allowed to keep the unemployment benefits which she received. Thus, it appears that Ms. Russell, has in effect, been allowed to receive full wages and salary, as well as unemployment benefits for the period of January 8, 1982 through February 23, 1982, and Mr. McCobb believes that such a result is not in accordance with the law.

Harvey L. Ludwick
Page Two
January 19, 1983

Of course, our office has no knowledge of all material at the disposal of the Division of Employment, and therefore cannot express an opinion as to the merits of Mr. McCobb's concern. However, we would appreciate a complete review of this matter, in order that Mr. McCobb may be promptly and thoroughly advised of all the legal ramifications of your conclusions. Enclosed you will find copies of all of our correspondence in this matter.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN



Bradley J. Smoot
Deputy Attorney General

BJS:hle

Enc.

cc: Allen P. McCobb

What a poor excuse for an insurance company! You put a ceiling on the revenues you collect, and a floor on the benefits you pay.

You have collected taxes on only the first \$6,000 of income.

You are paying average benefits on an income of \$11,770.

You are paying maximum benefits of an income of no less than \$15,340.

You have taxed 100% of the payrolls of the employers of the unskilled, part time, students, and moonlighters. -- The poverty level employees, who may qualify for a maximum benefit of \$74⁰⁰ per week.

You have taxed 49% of the payrolls of the employers of the moderately skilled. That Mr. average benefits recipient who was earning \$5.66 per hour and is now receiving \$125⁰⁰ per week unemployment.

And you have taxed only 39% or less of the payrolls of the employers of the high skilled worker. Those employers who can afford to pay their employees top wages, run high lay-off risks, and can guarantee their employees maximum benefits

You divide your employers into positive and negative categories. Basically, non-users and users.

Your positive account holders (non-users) have an average lower reserve ratio of 11% of their "taxable" wages. And an average upper reserve ratio of 14%. In dollars -- they have in deposit between \$429 million and \$546 million.

That has been reduced by the negative account holders (the users) to a sum which is dangerously close to depletion.

Your solution to revive this highly discriminatory, failing system, is to raise the ceiling on the amount you ~~stop~~ to encompass another $16\frac{2}{3}\%$ of the lower part of the payrolls.

And to raise the rate of collection under that ceiling and to add a triple ^{whammy} 20% ^{charge} surcharge.

Face it -- you are still not collecting any tax on the upper 54% of the average payroll! And you hardly begin to pay benefits to the employees who earn less!

Kansas' employers are paying Mr. Average Unemployed \$4.00 per hour not to work! Since we employers all must pay him not to work, you have given a reprieve to the employer who normally pays \$5.66 per hour. But

3 min

an unbelievable burden to the employer who normally pays 3.35 per hour!

In order to actually salvage the system, you must: 1) remove the ceiling on the amount on which taxes are collected. 2) Coordinate benefit amounts ~~to~~ paid, with rates of tax collected, by accelerating rates in line with increases in total payrolls. (As Federal ^{- or state} income tax) And 3) Set and adhere to maximum benefits, rather than having built-in extensions as the unemployment situation worsens!

However -- I cannot perceive our having or desiring (regardless of how it is subsidized) a system which pays the skilled workers more not to work ^{each week} than the unskilled worker ^{can} earn in 40 hours. Or which pays its able-bodied who have lost their jobs "through no fault of their own." And provides no benefits for the disabled who lose their jobs temporarily through accident or injury or "no fault of their own!"

What our state and country need are 1) a voluntary "lay-off" insurance subsidized by the employees who wish to purchase such. And 2) a good disability program!