From:	Matthew Duhamel
To:	Grp. City Council and City Web Site
Subject:	A Crisis with Pandemic Unemployment Assistance
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Missoula City Council,

I'm writing to inform you about an emerging crisis with Montana's large freelancer / gig worker / independent contractor population. As you are hopefully aware a large number of Montanans (and thus Missoulians) have gig work or freelance jobs. Most of these jobs were impacted by COVID. Many of us, including myself, applied for PUA (Pandemic Unemployment Assistance). Every gig worker I know, including myself, is now facing a bill from the PUA office in the thousands -- money we have spent to pay our rent / medical / grocery bills when there was no work.

This is the context; the crisis is how this reality intersects with the rules put together by the state for PUA and the slapdash way it was implemented. I can only share my own story with any clarity, but I suspect if you ask any of the other gig workers I know you would hear a similar story.

The personal context for my story is that I started a new freelancing contract as a 3D artist in January. By February the work had dried up due to COVID, but I was kept on as a contractor. I applied for PUA when the website opened -- I applied through the original unemployment website in February but was denied (due to freelancers not being covered normally by unemployment), it was not until the PUA website opened that I was able to be approved.I filled out the on-line application and was approved automatically on the 8th of June.

Then, between the 8th and the 23rd of June I was notified payout was denied due to lack of paperwork. I called the office and was told I needed to provide an IC (Independent Contractors) Exemption Certificate.

For your own clarity allow me to explain what that is, as most people in Montana who work 9-5 jobs have no idea. This is the first step in this cascade of elements which built to this crisis.

Due to the Workman Comp law employers must have Workman Comp insurance. If you are an independent contractor or gig worker you are exempt BUT you must send in a notarized application and $125 to receive a certificate indicating you are exempt. Now, if you got to the Montana Depart of Labor & Industry https://dli.mt.gov/ you will see no clear indication of this requirement. There is a page that says "Montana Contractor" but the common parlance most people use is freelance work or gig work. Everyone I know including myself read this as "Contractor, as in construction."

If you go to the Montana Contractor page (http://erd.dli.mt.gov/work-comp-regulations/montana-contractor) the text on this page does not provide clarity about who needs to apply for this.

For example:

"The Independent Contractor Central Unit is responsible for:

Issuance of an Independent Contractor Exemption Certificate to independent contractors who are independently established in their own business and have elected to not cover themselves under a Montana workers' compensation insurance policy."

Does a Doordash worker or Lyft driver read this and think "I am independently established in my own business?" I certainly didn't as a 3D artist.I thought "I am a sole proprietor, I do not have (nor do I need to pay taxes) a Business License. This may not apply to me." In truth, I never even visited this website before I heard from the PUA office. In other states I have simply started a freelancing gig and paid taxes.

In short, the obscure work requirement for freelancers, not properly highlighted or explained, has set people up for a problem with the PUA office.

Back to the narrative: between June 8th and June 23rd I call the PUA office and they explain I lack this certificate. I say to the woman "OK, I want to get that certificate. What do I do?"

She replies, "We can take care of this over the phone." She then proceeds to ask me questions about my job, what I do, what duties I perform, etc.

I answer and she says after a few moments "Alright, I've taken care of that on our end. You will see your payment in a few days."

Sure enough, in a few days my check for PUA back payment through February arrives. At this moment I make what I consider a reasonable inference: she had helped me file for this certificate over the phone and now having the information on file I was approved. This inference is borne of my experience in other states where I have freelanced and dealt with state departments (California, Colorado, Washington.) In those states if called a department and they required information and I gave it to them over the phone that was enough UNLESS they explicitly said I needed to send them a form. I was not, so I assumed I was good. As, I believe, all the gig workers I know assumed.

Flash-forward to August, I am sent a letter requesting more information about my employment. They tell me I can send various pieces of information such as business licenses in the state, my website, my contract with my client, emails, lists of tools, invoices, etc. I send the following:

1. My w9 (Since I only started with my client in January and almost immediately I stopped being paid due to COVID I did not yet have a Schedule C or 1099).

2. My invoices (before COVID affected income in February).

3. My website.

4. Correspondence with my client.

5. My lease agreement (to prove I live in Montana, as I work from home).

I submit all this information and hear nothing and receive nothing until Oct 26th when I am informed that the PUA office has determined I am NOT a member of the workforce and I owe them all the PUA funds back (which is thousands of dollars I spent on rent, food, medical

bills.)

I called the PUA office on the 27th and was told I can file an appeal, but that I Need to submit more information.

Me: "OK, what else do you require from me?"

PUA agent: "You need to submit... (lists the information from the list I already had)."

Me: "OK, I submitted... (I list what I listed above), why is that not enough?"

PUA agent: "Well, it's not enough. Your website could just be set up, your W9 is not a W2 (note: a W2 is not what freelancers submit, they submit a 1099, so she did not even know the proper form). And this is just an email."

Me: "OK, what else should I submit."

PUA agent: she simply repeats the list.

I conclude from this exchange that they want something else from the list, which could be taxes (I haven't filed taxes yet), a business license (not needed since I am a Sole Proprietor), or the IC Certificate (Which, I assumed, they already had.)

Me: "Do you have my IC Certificate on file?"

Pua Agent: This is the PUA department not the IC department. You need to call them.

I call the IC Office the same day.

Me: "Do you have this IC certificate on file?" (I explain the situation as I understand it.)

IC Agent: No, we do not, and they cannot be filed backdated.

So now I am placed in a situation where I am trying to find a number for the PUA adjudicator's office to figure out what other documentation I can provide. Fortunately, my own work has picked up, and so I chose to file my Q4 taxes early (even though I did not make enough yet this year to require me to pay quarterly payments) in the hope that it will be considered evidence. But I am more diligent and stubborn than a great many people I know.

The reality is I know a freelancer from Missoula on the brink of suicide because of their PUA notice (and that person was guided through the process by a public aid office in Missoula). I know 5 other people facing the same notice for the same reasons. I have had to take 3 days off of work in order to deal with the paperwork. The irony of taking off work to fight the state to uphold its end of a social contract when it comes to being unable to work is palpable. I feel the irony surge across my temple as a headache.

I know that you as City Council members likely have no direct control over the PUA process, but my hope is that you have either influence or contacts in the state bureaucracy or the state

news media to shine light on this. As COVID cases soar and the economy is primed for another downturn many of your most precarious citizens are facing down, essentially, new debt that we should not be responsible for. You're going to see the repercussions of this crisis as a spike in emergency service use and requests for public assistance. Like it or not, the consequences of these rulings are going to end up in your sphere of responsibility.

Hopefully you will be able to help us.

Regards,

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