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**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 01-24**

**TO:** STATE WORKFORCE AGENCIES

**FROM:** BRENT PARTON   
Principal Deputy Assistant Secretary

**SUBJECT:** Equitable Access in the Unemployment Insurance (UI) Program

1. **Purpose.** This Unemployment Insurance Program Letter (UIPL) provides clarity around the U.S. Department of Labor’s (Department) use of the terms “access” and “equitable access,” and further describes how program integrity is impacted by efforts to ensure equitable access to the Unemployment Insurance (UI) program. This UIPL informs states of ways that equitable access can be evaluated and enhanced, including through technical assistance and tools from various Department initiatives and state-based partnerships.
2. **Action Requested.** The Department’s Employment and Training Administration (ETA) requests that State Administrators provide the information in this UIPL to appropriate program and other staff in state workforce agencies to foster continuous improvement in equitable access for the UI program.
3. **Summary and Background.**
  - a. Summary – Ensuring equitable access to the UI program is a longstanding priority of the Department. Providing equitable access is an important part of providing good customer service to all individuals. State UI agencies have been focused on continuously improving their UI programs, and this UIPL provides suggestions to help states achieve a more equitable program with improved access.

Section 4.a. of this UIPL describes access and equitable access, introduces examples of how states can ensure equitable access and provides a framework for how equitable access can support overall program integrity. Identifying and preventing all forms of improper payments – including underpayments and erroneous denials – are critical to ensuring program integrity, and equitable access plays a key role in supporting these efforts.

Section 4.b. of this UIPL describes the states’ existing obligations with respect to equitable access.

Section 4.c. of this UIPL discusses how states should consider equitable access during every step of a UI claim by mapping and evaluating the “claimant journey.” It further

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describes how states can build an “equitable access framework.” Finally, it describes how states should seek feedback from their communities regarding improving access. Attachment I to this UIPL includes a graphical representation of the steps involved in a UI claim (i.e., the claimant journey).

Section 4.d. of this UIPL outlines promising practices for achieving equitable access as states design their technology systems and engage in modernization efforts. This includes refining both claimant-facing materials as well as agency-facing tools. In addition, Attachment II provides information regarding technical assistance and resources available to states, including recommendations for improved technological services and supported alternatives to technology-based touch points.

- b. Background – UIPL No. 02-16, issued October 1, 2015, articulates the requirement under federal law to ensure access to the UI program and provides guidance to assist states with meeting this requirement. UIPL No. 02-16, Change 1, issued May 11, 2020, highlights additional state responsibilities regarding access to UI benefits. Further, the inclusion of equitable access as one of the three goals of Section 9032 of the American Rescue Plan Act (ARPA)<sup>1</sup> and as a national priority in the State Quality Service Plan (see UIPL No. 9-23) emphasizes equitable access as a fundamental requirement of the UI program.

UI reciprocity rates, or the percentage of unemployed workers who receive unemployment benefits, have declined steadily for years. In the quarter ending September 30, 2022, the reciprocity rate was 23.5 percent compared to 40.1 percent for the quarter ending September 30, 2002.<sup>2</sup> Claims-filing systems have evolved from in-person and postal systems to primarily telephone and web-based<sup>3</sup> systems. Technological solutions have improved states’ ability to process claims and have helped many claimants access their benefits; however, these solutions also come with process limitations. Many of these limitations may impact claimants’ ability to access the UI system. States are required to have alternatives to technology-based access points, such as in-person and telephone touch points to ensure access for those unable to use web-based systems. See UIPL No. 2-16.

Declining UI reciprocity is an equity issue. Data indicates that the challenge of low reciprocity has been particularly difficult for historically marginalized groups that experience high rates of unemployment. Young adults and individuals from historically marginalized groups, especially African Americans, have unemployment rates that are consistently higher than the national average. A recent report commissioned by the Department on UI reciprocity found “dramatic disparities between demographic groups, with lower reciprocity rates among racial and ethnic minorities, younger workers, and

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<sup>1</sup> Section 9032 of ARPA provides a \$2.0 billion appropriation to the Secretary of Labor to: (1) detect and prevent fraud; (2) promote equitable access; and (3) ensure the timely payment of benefits with respect to UC programs.

<sup>2</sup> United States Department of Labor, Employment & Training Administration, Unemployment Insurance Data, [https://oui.doleta.gov/unemploy/data\\_summary/DataSum.asp](https://oui.doleta.gov/unemploy/data_summary/DataSum.asp).

<sup>3</sup> Web-based technology includes both internet and phone application-based systems.

less-educated workers.”<sup>4</sup>

The COVID-19 pandemic created an unprecedented demand for benefits and highlighted the need to continue prioritizing, augmenting, and improving support for non-technological access points in state UI programs. Further, the COVID-19 pandemic highlighted the need for states to improve web-based systems with a stronger focus on advancing equity through user experience and customer service improvements. Indeed, the U.S. Government Accountability Office (GAO) issued a report on June 17, 2021, suggesting potential racial and ethnic disparities in the receipt of UI benefits in some states during the COVID-19 pandemic,<sup>5</sup> and another a GAO report issued on June 7, 2022, highlighted the need for state UI systems to improve customer service and timely payment issuance.<sup>6</sup> These GAO reports align with the Department’s position that there is room for improvement in customer service as well as equitable access to UI benefits and services.

4. **Guidance.** The Department is committed to supporting states in ensuring and sustaining equitable access to UI benefits for all eligible workers, including workers who are a part of historically underserved and marginalized communities. This includes ensuring eligible claimants can access and maintain benefits in a timely and fair manner, regardless of their background. Providing equitable access requires states to, at a minimum, adhere to applicable nondiscrimination laws such as Section 188 of the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations set forth at 29 CFR part 38. State UI agencies should start by ensuring they are familiar with and are properly enforcing existing nondiscrimination laws. Equitable access, however, involves more than just compliance with federal antidiscrimination requirements. It demands a systematic approach to analyzing all aspects of the program, including all points at which claimants interact with the UI system during their claim. This UIPL first discusses state requirements to provide equitable access in compliance with existing laws and regulations in Sections 4.a and 4.b. Next, it outlines several ideas and steps that states can leverage to further embed equitable access throughout the UI program in Sections 4.c. and 4.d.
  - a. **Understanding UI Program Access, Equitable Access, Integrity, and the Related Requirements.** Under Section 303(a)(1) of the SSA, a state’s laws must provide for “methods of administration” that are “reasonably calculated” to ensure full payment of unemployment benefits “when due” in order to receive a UI administrative grant. See UIPL No. 02-16. The Department interprets this language to include the requirement that states provide sufficient access for all individuals who seek to file for UI benefits and related services within the UI program so that eligibility can be determined, and benefit

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<sup>4</sup> Eliza Forsythe and Hesong Yang, “Understanding Disparities in Unemployment Insurance Reciprocity,” prepared for the U.S. Department of Labor Chief Evaluation Office, November 12, 2021 <https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/University%20of%20Illinois%20-%20Final%20SDC%20Paper.pdf>.

<sup>5</sup> GAO-21-599R, *Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic*, published June 17, 2021, <https://www.gao.gov/products/gao-21-599r>.

<sup>6</sup> GAO-22-105162, *Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks*, published June 07, 2022, <https://www.gao.gov/products/gao-22-105162>.

payments can be made promptly. Embedding equitable access principles into each step of the UI process can help a state meet their obligation of providing sufficient access for all populations.

- i. **“Access.”** In UIPL No. 02-16 and UIPL No. 02-16, Change 1, the Department previously defined **access** as it relates to the UI program for the purposes of conforming to Section 303(a)(1) of the SSA to mean an individual’s ability to complete, submit, and obtain information about their initial and continued claims, adjudication, appeals, reemployment services, overpayments, waiver of overpayments, underpayments and other improper payments, and any other information, program functions, or services available for all claimants.

UI benefits are by law an individual entitlement and states have an obligation to make sure that eligible individuals can access them. Access is facilitated through methods of administration that states establish to effectively enable eligible claimants to get the benefits to which they are entitled. Under the “when due” provision of Section 303(a)(1) of the SSA, the Department previously defined “access” in UIPL No. 02-16 to require states to ensure that all individuals have the opportunity to be informed of, and take appropriate action(s) to complete the following **without facing undue burdens or barriers** related to their claim:

- apply for UI benefits;
- maintain their entitlement to UI benefits; and
- access services.

See Section 4.A. of UIPL No. 02-16.

- ii. **“Equitable Access.”** **Access** refers to whether claimants are able to participate in the UI program generally. **Equitable access** as used in this UIPL refers to whether the UI system is meeting the needs of all populations such that they can obtain their benefit entitlement. Equitable access is a concept derived by the Department from prior guidance. It represents an opportunity to frame access initiatives and clarify best practices in providing access to all claimants. Equitable access means that state UI agencies are ensuring that all individuals have an effective and meaningful opportunity to obtain the benefits to which they are entitled.

The Department describes equitable access in the UI context as: the consistent and systematic fair, just, and impartial treatment of all beneficiaries of, applicants to, and participants in the UI program. This includes providing all individuals with an effective and meaningful opportunity to apply for, receive, and maintain UI benefits and services, no matter their background, including but not limited to their race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, sexual orientation, and gender identity), national origin (including limited English proficiency), age, disability (including effective communication and the provision of auxiliary aids

and services), level of education, level of technology access or proficiency, socioeconomic status, or geographic location.

The non-exhaustive list of demographic groups in the previous sentence is drawn from prior guidance, laws, and regulations about groups that may struggle to access the UI program.<sup>7</sup> As noted above, Section 303(a)(1) of the SSA requires that states have “methods of administration” that are “reasonably calculated” to ensure full payment of benefits “when due.” Just as *access* required states to provide services without undue burdens or barriers, *equitable access* requires states to review how their processes affect different populations to ensure that the state’s operations are not creating undue burdens or barriers for any particular group who would otherwise be entitled to benefits. States are required to provide appropriate assistance to individuals who have challenges accessing the UI program and its benefits, even if they are not necessarily in a protected class, including, for example, individuals with low literacy levels (specifically with respect to reading comprehension), or individuals living in rural areas. See UIPL No. 02-16. States should endeavor to understand which other populations in their state may be facing disproportionate barriers when trying to access benefits. Particular barriers may have a disparate impact on certain populations, even if they are not expressly implicated or targeted for different treatment. Striving to continuously improve equitable access can help states reduce discrepancies in access to benefits among different populations over time, ensure that benefit payments can be made promptly and accurately to all claimants, and proactively resolve issues within their own UI programs.

Through more equitable services and processes, states are better positioned to reduce confusion along with reducing both agency-based and claimant-based errors. This can have the subsequent effect of reducing improper payments (see Section 4.a.iv. of this UIPL) and also reducing the burden on state agencies

- iii. ***Implementing Equitable Access.*** Achieving equitable access requires that states continuously consider the potential adverse impacts of agency access points, processes, and other methods of administration across diverse populations. Importantly, access needs vary among people. Providing only one process for all claims does not conform to existing nondiscrimination obligations and can create

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<sup>7</sup>See generally Section 303(a) of the Social Security Act (SSA), 42 U.S.C. § 503(a), Section 188 of the Workforce Innovation and Opportunity Act (WIOA), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq.; Title II of the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. § 12132 et seq., 42 U.S.C. § 2000d, as well as UIPL 11-14, which reviews State administrators of their responsibility to collect and analyze demographic data for possible indication of systemic discrimination and investigate the same. See also, 29 CFR § 38.4(tt) (definition of programmatic accessibility); Prior guidance includes, but is not limited to, UIPL No. 02-16 and UIPL No. 02-16, Change 1 which defines access and applying that definition to the populations defined in that UIPL, UIPL No. 11-14, and non-discrimination laws as cited previously.

inequities and access issues for claimants accessing the system.<sup>8</sup> States must provide more than one method for accessing the system and should consider the different barriers individuals may face when interacting with the UI system. See generally WIOA Section 188; 29 CFR Part 38; UIPL No. 02-16 and UIPL No. 02-16, Change 1.

Equitable access necessarily includes a wide variety of approaches, goals, and solutions to reach all claimants. Currently, the following steps are required based on existing law:

- writing correspondence in plain language. Plain Writing Act of 2010, Public Law 111-274; States should ensure that all communications are written to accommodate different literacy levels. According to the Department of Education, the average American adult reads at the 7th to 8th grade level. See UIPL No. 02-16;
- building systems that do not prevent or limit access for individuals based on race, color, religion, sex, national origin (including limited English proficiency), disability or age. See 29 CFR § 38.1;
- collecting and maintaining claimant demographic data in a way that allows for statistical or other quantifiable analyses to verify compliance with nondiscrimination obligations. See 29 CFR § 38.41; 29 CFR § 38.51;
- conducting analyses broken down by demographic categories to identify any statistically significant differences in the success rates of claimants. See 29 CFR § 38.51;
- making reasonable efforts to include members of various protected groups via affirmative outreach. See 29 CFR § 38.40;
- providing individuals with disabilities access to, and the use of, information, resources, programs, and activities that are fully accessible and ensuring that the opportunities and benefits provided by digital tools are provided to individuals with disabilities in an equally effective and equally integrated manner. See 29 CFR § 38.15;
- ensuring digital tools incorporate accessibility features for individuals with disabilities and are consistent with modern accessibility standards. See 29 CFR § 38.15;
- providing reasonable accommodations; reasonable modifications in policies, practices, or procedures; and auxiliary aids and services, where appropriate; and ensuring that communications with persons with disabilities are as effective as communications with others. See 29 CFR § 38.13;

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<sup>8</sup> See generally UIPL 02-16 and UIPL No. 02-16, change 1 for a review of how these nondiscrimination obligations apply to access and equitable access issues. See also WIOA Section 188 generally.

- ensuring that limited English proficient (LEP) individuals are provided meaningful access and are effectively informed and able to participate in the UI program;<sup>9</sup>
- providing translations of vital documents. See 29 CFR § 38.9;<sup>10</sup>
- ensuring that every program delivery avenue, including web-based platforms, convey in the appropriate languages how an individual may effectively learn about, participate in, and/or access the UI program. See 29 CFR § 38.9.
- ensuring that any language assistance services, whether oral interpretation or written translation, are accurate, provided in a timely manner and free of charge. See 29 CFR § 38.9(d).

In addition to the requirements above, states are encouraged to choose to take the following actions that can help promote additional pathways to equitable access:

- identifying and reducing or eliminating administrative barriers for claimants, where possible;
- discovering and mitigating agency- and claimant-based errors leading to overpayments and underpayments;
- assisting employers in providing information equitably and without bias;
- creating simple and user-friendly processes to complete all stages of a claim, including identity verification and authentication activities;
- considering trends in unemployment insurance application and reciprocity rates in the state and differences among historically-marginalized groups and other groups the state has identified as struggling with access;
- establishing and maintaining processes to continuously monitor for challenges that individuals are facing in accessing the program;
- creating simple and accessible processes for overpayment establishment and recovery for wage audits, including where applicable, streamlining the processes for requesting waiver of recovery of certain non-fraud overpayments;
- improving the timeliness and accuracy of UI payments across all demographic groups;
- reviewing and improving integrity measures and considering diverse claimants' needs and backgrounds when designing ways to prevent and detect underpayment, overpayments, erroneous denials, and fraud; and
- reviewing the appendix to 29 CFR § 38.9 to inform efforts to meet language access needs for LEP individuals and ensure an up-to-date language access plan is in place.

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<sup>9</sup> See 29 CFR § 38.9, which provides information about required language assistance services and notices and provides that both oral interpretation and written translation must be accurate, provided in a timely manner and free of charge. Further, the state must not require an LEP individual to provide their own interpreter. See also UIPL Nos. 2-16 and 2-16, Change 1.

<sup>10</sup> See also UIPL No. 02-16 for a further discussion of states' obligations with respect to language access.

Equitable access must be considered in every part of the UI program, as discussed further in Sections 4.c. and 4.d. of this UIPL and in Attachment I of this UIPL. As technology, decision trees, process flows, and UI program requirements evolve, states should continue to engage in intentional, consistent improvement efforts to discover and mitigate access issues by reviewing the experiences of diverse groups of claimants throughout each stage of a UI claim. States are encouraged to develop systems and processes that can determine where issues exist, and develop and implement action plans devoted to proactive, continuous improvement. See UIPL No. 09-23.

- iv. ***Program Integrity: Ensuring Equitable Access and Mitigating Improper Payments.*** Equitable access plays an essential role in maintaining the integrity of state UI programs. UI program integrity involves both ensuring that eligible claimants are paid accurately and timely, as well as ensuring only those who are entitled to benefits receive them. Accurately and timely paying benefits to eligible claimants requires ensuring claimants are not underpaid, improperly denied, or experiencing undue delays in receiving the payment to which they are entitled. Promoting equitable access helps achieve the program integrity goal of ensuring that legitimate claimants receive the benefits to which they are entitled. Likewise, promoting equitable access helps ensure that when seeking to detect and prevent improper payments, states focus their resources at the appropriate targets and do not rely on biased enforcement methods or criteria.

Improper payments encompass both overpayments and underpayments. An overpayment occurs when a state determines that the individual received a payment, or a portion of a payment, for which they were not eligible. Underpayments occur when a state UI agency determines that the claimant did not receive the full benefit amount to which they were entitled (e.g., through an improperly calculated weekly benefit amount, a failure to pay all weeks due). Improper (i.e., erroneous) denials are a subset of underpayments, occurring when a state UI agency incorrectly denies an individual's claim, either in its entirety or for an individual week, such that the individual receives no benefits at all. Addressing improper payments, including improper denials, requires consistent and systematic review to ensure that claimants can move through their UI claim without any undue barriers so that eligibility can be accurately determined and benefit payments in the appropriate amount can be made promptly.

An improper denial or inappropriate underpayment may occur when a claimant with limited access to the internet, or limited proficiency with technology, has trouble completing a claim online and the state does not provide easily accessible non-web-based methods of administration. Claimants with disabilities may encounter technology barriers to access. Further, LEP claimants may be technologically savvy but unable to read or understand English used in web-based portals, affecting their ability to access their claim. See 29 CFR part 38.9(c) and UIPL No. 02-16. If a claimant cannot consistently access their web-based account, they might miss important updates, determinations and other decisions, or requests from the agency, which could lead to the claimant being denied



benefits to which they would have otherwise been entitled. Similarly, claimants faced with administrative difficulty in responding to questions about initial and continued claims eligibility may be initially paid benefits, but later deemed to have an overpayment for failure to respond and face the financial hardship of repayment. Administrative difficulty may arise as a result of a poorly worded fact-finding form or request for information.

EXAMPLE: The agency designed the fact-finding form about earnings in present tense because most investigations begin while the claimant is actively collecting benefits. But some investigations occur after a claimant stops collecting benefits.

A claimant stops collecting on their claim when they start their next job. Over a year later, they receive a fact-finding form, which is intended to investigate wages earned during the claim from two years ago. In the form, the first question asks, “Are you working full time?” without any additional context. The agency was intending to ask about the timeframe of the UI claim from two years ago, but the question does not actually present that question to the claimant. The form does not provide the dates that the agency is investigating until a later page where the agency asks for the wages earned during weeks over a year earlier while the claimant was collecting benefits. Because the first question asked about working in the present tense, rather than identifying the weeks under investigation when the claimant collected, the claimant is likely to answer “Yes” because the claimant is currently working full time. Even if the claimant did not earn anything during the weeks in question and provides that information later in the form, this initial question may create an issue where the agency now incorrectly believes there was an improper, and possibly fraudulent, payment. Because of the questions asked, the agency’s investigation may have inadvertently created significant additional workload and confusing data points to make the next adjudication, and it could result in an erroneous denial in the form of an incorrect reversal of eligibility determination and overpayment determination by the agency.

When states continuously improve their integrity efforts to identify how and where improper payments may be occurring along with how to prevent them, states may find equitable access improvement opportunities that also improve program integrity. The Department already requires states to identify how and where improper payments – including all forms of underpayments, including improper denials – may be occurring as well as how to prevent them. See UIPL No. 09-23.

b. **Requirements for State UI Agencies.** This UIPL reminds states of their existing obligations and explains how these obligations support states' continual improvement with respect to equitable access.

- i. ***Adjudication of Claims and Other Inherently Governmental Activities Must be Performed by Merit Staff.*** While states may utilize electronic systems to handle certain functions such as intake of initial claim information, merit staff are required to evaluate and adjudicate claims and make overpayment determinations. UIPL No. 12-01, Change 2, provides a summary of federal law regarding merit staffing requirements and considerations for a state when evaluating whether an activity is appropriate for staffing model flexibility – including through the use of automation.
- ii. ***Oversight and Limits Regarding Technology.*** There are legal limitations on what functionalities technology is authorized to manage for UI claims. While technology can offer enhanced processes for states, it may affect how well people can access their claims. Not all claimant circumstances will fit into a system's generalized coding and organization for all types of eligibility and qualification issues. As such, states should ensure their systems have appropriate intervention points where the agency can take over the process from the technology to handle the claims and/or claimants' interactions with the agency. This may be particularly necessary when providing accessible systems for persons with disabilities and persons with limited English proficiency (LEP). Further, states should also consider the reliability of translations, particularly those that have been created with online translation software, also known as machine translation. Generally, such tools are discouraged but, when used, require review by qualified human linguists. Additionally, UIPL No. 01-16 describes the federal requirements to protect individual rights in state overpayment prevention and recovery procedures, including any technologies used to maintain program integrity. States are also limited in how they can use technology to adjudicate issues related to fraud. See UIPL No. 11-14, UIPL No. 02-16 and UIPL No. 02-16, Change 1 for more information about these legal requirements.
- iii. ***Required Alternatives to Web-Based Services.*** UIPL No. 02-16 explains that state UI agencies must ensure that the use of technologies and systems for administering UI programs and providing services do not create barriers (e.g., administrative, procedural, technological, or informational) that may prevent individuals from accessing UI benefits, such as by denying them a reasonable opportunity to establish and maintain their eligibility.

UIPL No. 02-16 and UIPL No. 02-16, Change 1 also describe states' obligation to provide accessible alternatives to web-based technology. States may offer individuals the option of receiving certain information and services via electronic methods but may not require that individuals communicate only through electronic means. Such policies unduly restrict program access, as not all individuals have the ability or capacity to communicate electronically. For

persons unable to access or use a web-based system, the state must offer alternative options for accessing information and benefits, such as by telephone or in person, in a manner that ensures effective and meaningful access to the UI system. Further, states must broadly and conspicuously disseminate information about alternative access options in ways that ensure that individuals who may need to use such options are aware of how to utilize them. See 29 C.F.R. 38.15(c). In addition to benefitting individuals who are unable to access or use a web-based system, these alternative non-web-based access points may also provide a convenient option for those who do not have access to technology, do not have technology proficiency, and those who have a disability, or are limited English proficient (LEP).

In addition to hindering equitable access to the UI system, the use of a website and web-based technology as the sole or primary way for individuals to obtain information about UI benefits or to file UI claims may have the effect of denying or limiting access to members of protected groups in violation of Federal nondiscrimination law, as described in UIPL No. 02-16 and UIPL No. 02-16, Change 1.

- iv. ***Improving Access across Demographic Groups.*** As noted above, states are required to have “methods of administration” to ensure full payment of benefits “when due” and provide claimants the benefits to which they are entitled. See Section 303(a)(1) of the SSA and UIPL No. 02-16. Additionally, the nondiscrimination laws<sup>11</sup> that apply to state UI agencies prohibit discrimination based on both disparate treatment – intentionally treating members of protected groups differently based on their protected status – and disparate impact – the use of policies or practices that are neutral on their face but have a disproportionate impact on members of protected groups. See UIPL No. 02-16 and UIPL No. 02-16, Change 1. UIPL No. 02-16 and UIPL No. 02-16, Change 1 outline states’ legal obligations with respect to ensuring access across demographic groups, including older individuals, LEP individuals, and individuals with disabilities. States are also required to provide appropriate assistance to individuals who have challenges accessing the UI program and its benefits, even if they are not necessarily in a protected class, including, for example, challenges due to low literacy levels (specifically with respect to reading comprehension), socioeconomic status, access to technology and the internet, and geographic location.
- v. ***Required Collection, Maintenance, and Analysis of Demographic Data.*** The Department’s role in monitoring state performance requires that states collect, maintain, and analyze sufficient data to determine whether states have methods of administration reasonably calculated to ensure full payment of compensation

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<sup>11</sup> See generally 42 U.S.C. § 503(a); Section 188 of the Workforce Innovation and Opportunity Act (WIOA); 42 U.S.C. § 2000d et seq.; 29 U.S.C. § 794; 42 U.S.C. § 6101 et seq.; 42 U.S.C. § 12132 et seq.. See also UIPL 11-14, directing State administrators collect and analyze demographic data for possible indication of systemic discrimination and investigate the same. See also, 29 CFR § 38.4(tt) (definition of programmatic accessibility);

when due to all eligible unemployed workers, including workers in populations that may be underserved or marginalized and struggle to establish, maintain, and protect their right to UI benefits. Further, rigorous data collection and analysis helps states to understand the scope of the problems claimants face and whether the states' solutions are having the intended impact. This includes collecting robust demographic information from claimants and enabling data disaggregation and analysis to fully understand where inequities exist and determine where resources and efforts ought to be targeted. Section 303(a)(6) of the SSA provides the Department latitude to obtain state data to review programs. UIPL No. 11-14 describes states' significant data collection, maintenance, and analysis obligations under certain provisions of the WIA. These requirements are still in place under WIOA and its implementing regulations, including 29 CFR Part 38.

The requirements to collect and maintain data are part of state UI agencies' obligation to detect and address possible discrimination based on either disparate treatment or disparate impact. 29 CFR Part 37.37 and OMB Control Numbers 1205-0009 and 1225-0077. See also UIPL No. 11-14, UIPL No. 02-16 and UIPL No. 02-16, Change 1. State UI agencies are required to "collect such data and maintain such records...as the Director [of DOL's Civil Rights Center, or CRC] finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions..." See 29 CFR § 38.41. Specifically, they "must record the race/ethnicity, sex, age, and where known, disability status of every applicant, registrant, participant, terminatee, applicant for employment, and employee." See 29 CFR § 38.41(b)(2). Additionally, state UI agencies "must also record the limited English proficiency and preferred language of each applicant, registrant, participant, and terminatee." See 29 CFR § 38.41(b)(2).

Determining whether "methods of administration" are "reasonably calculated" to ensure full payment of unemployment compensation "when due" for all unemployed workers, including those belonging to historically underserved or marginalized groups, requires rigorous data collection and analysis. See Section 42 U.S.C. 503(a)(6) (requiring states to create reports); Section 188 of WIOA; 29 C.F.R. § 38.51(b) (requiring reports and data analysis to determine whether the state's program is complying with WIOA requirements); see also UIPL No. 11-14. This includes collecting demographic information from all claimants, enabling data disaggregation, and designing analyses that can detect where inequities exist and determine where resources and efforts ought to be pursued. An evidence-based approach will help states focus on the most effective solutions, helping to make the effort sustainable and scalable.

Under 29 CFR § 38.51, UI program administrators must conduct statistical or other quantifiable data analyses of demographic records and data to determine whether their UI programs and activities are being conducted in a nondiscriminatory way. This includes, at a minimum, analyses by race/ethnicity, sex, age, limited English proficiency, preferred language, and disability status, to identify any statistically significant differences in the success rates of claimants

who are members of these demographic categories. Once the required analyses are complete, states are encouraged to analyze claims-based data across these demographics throughout the adjudication and appeals processes. UIPL No. 11-14 includes an outline of the types of analyses that should be conducted, broken down by demographic category and by portion of the claimant journey. Where these analyses identify statistically significant differences, UI program administrators must ensure that the differences are investigated, to determine whether they appear to be caused by discrimination in the UI program. See 29 CFR §§ 38.31; 38.51.

c. **General Application of Equitable Access to the UI Program.** As states invest in ways to continuously improve equitable access to the UI program, they can map and evaluate the “claimant journey,” build an “equitable access framework,” and solicit feedback from the community.

- i. ***Mapping and Evaluating the “Claimant Journey.”*** Equity and equitable access should be infused into every aspect of the UI program. The UI claims process generally includes the following phases: pre-claim filing (i.e., awareness of the program, self-assessment of eligibility, and understanding how to file a claim), initial claims application, identity verification and authentication, completing work search activities, continued claims certification, fact finding and resolving eligibility issues, correspondence, and adjudication, appeals, and analyzing all forms of improper payments. These steps typically constitute the “claimant journey.” Equitable access is reviewed, in part, by mapping how claimants across different demographic groups access the system at each step to determine what barriers they face in the process.

Attachment I to this UIPL includes a graphical representation of the claimant journey and describes how states may continuously review their practices in order to make equity improvements and build safeguards into their systems to detect and rectify gaps in access.

- ii. ***Building an Equitable Access Framework.*** The legal requirements for equitable access to the UI program are outlined above (see Section 4.a.iii.). In addition to meeting the requirements above, states have an opportunity to further embed equitable access into the overall UI framework.

To build the equitable access framework, states should consider having a UI equity subject matter expert (SME) on their UI staff, ideally in a leadership role. The SME should be distinct from the Equal Opportunity Officer positions, described in 29 CFR § 38.28. Equity SMEs should be regularly consulted with on all aspects of the UI program and should regularly coordinate with their counterparts in other state government offices.

Additionally, an equitable access framework requires that states routinely monitor their UI program to identify barriers to equitable access. Below is a non-exhaustive list of questions that states can use to evaluate and focus

agency initiatives to identify program barriers and improve equitable access across demographics and to review how claimants access web-based, in-person, phone, and other alternatives services:<sup>12</sup>

- Who is accessing web-based platforms? Who is using non-electronic options? Which non-electronic options (*e.g.*, in-person options, phone options, other) are being utilized? Is there a demographic commonality among individuals who are accessing non-electronic options versus electronic options? What can be done to try to address any barriers that may be occurring that prevent individuals from accessing web-based platforms?
- How is the web-based platform being accessed (*e.g.*, is it through a device running a mobile-based OS (iOS / iPadOS / Android/etc.) or a desktop-based OS (Windows/macOS/Linux/etc.)? What is the demographic split among them? How is this access point affecting these groups' access to benefits?
- Where are claimants accessing the web-based technology (*e.g.*, from a public computer or a private one)? Is that affecting any other part of the process for claimants to establish or maintain their access to benefits?
- What methods are in place to determine who abandons their claim, at what point of the claim cycle, and for what reason (*e.g.*, because of difficulty accessing or understanding next steps versus changes in eligibility status through re-employment or for other reasons)?
- Where are individuals struggling or disengaging during the UI process? At what points in the process are claimants most likely to reach out to state staff with questions? Do certain populations struggle more with different steps?
- How long does the process take a typical individual? What methods are in place to identify individuals or populations for whom the process is likely to take longer? Why is the process harder for those applicants?
- What are claimants reporting on in customer feedback surveys? What are claimants reporting in person at UI offices as part of feedback on the claimant journey in practice?
- What barriers are preventing claimants from successfully filing for benefits? What barriers are preventing claimants from maintaining their claim (*i.e.* completing eligibility requirements, responding to state UI agencies' communications, understanding and acting on appeal rights, etc.)?
- What can state agencies do to identify and mitigate equitable access barriers?

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<sup>12</sup> For each of these data points, states should review demographic data to determine which aspects work well and do not work well for various groups so the state can continuously improve equitable access through its various access points. Also, states should ensure they are complying with Federal and State privacy laws, including 20 CFR Part 603, related to receiving and analyzing this information. The Department is available to provide technical assistance related to any state UI agency's analysis of these questions, how to enact this review, and how to implement improvements based on these discoveries.

- What logistical supports are needed to best serve individuals with access issues in all areas of the state?
- Are there technology limitations that impact access, whether due to portal design, or claimants' limited technology knowledge, etc.?
- Are notifications and other information about UI benefits and other UI services widely distributed and available in plain language and in all appropriate languages?
- What targeted improvements and affirmative outreach may improve the reciprocity rates between different groups?

Once initial data has been collected, states should open communication channels with members of diverse demographic groups, community-based organizations, claimant advocates, and other stakeholders to identify what specific technological improvements could be made to achieve a more equitable process. After improvements are implemented, states should continue to review and evaluate the efficacy of those improvements, using the data outlined above and adjust as necessary.

- iii. ***Benefits of Equitable Access.*** There are far-reaching benefits to evaluating and improving equitable access. A state UI agency's investment in providing equitable access will ultimately benefit all individuals interacting with a state UI agency. Improving outcomes for workers with access issues creates new opportunities and positive spillover impacts for every community a state serves.<sup>13</sup> Focusing on equitable access throughout all stages of a UI claim can improve both state workload efficiency and customer experience in general. States that are proactive in their approach to equitable access may experience an overall reduction in their workload. For example, focusing on equitable access can cut back on duplication of effort and claimant calls because of confusion or frustration, leaving those lines open for resolution of other claims issues. Further, when claimants are better able to access and navigate the UI system, they may rely less on state staff to answer questions and may be able to better provide the state with the required information for the agency to make appropriate determinations. This, in turn, can lead to more accurate initial determinations, so states will have fewer appeals.

Through more equitable services and processes, states are better positioned to reduce confusion and agency and claimant-based errors. This can have the subsequent effect of reducing improper payments (see Section 4.a.iv. of this UIPL) and also reducing the burden on state agencies. Moreover, improving

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<sup>13</sup> There have been significant economic impact studies that review the importance of state UI agencies' ability to pay benefits to entitled claimants. See Blinder, Alan and Zandi, Mark, *The Financial Crisis: Lessons for the Next One*, CENTER ON BUDGET AND POLICY PRIORITIES, October 15, 2015, available at <https://www.cbpp.org/research/economy/the-financial-crisis-lessons-for-the-next-one>; See also Karabarbounis, Marios, *Unemployment Insurance: Economic Lessons from the Last Two Recessions*. Federal Reserve Bank of Richmond Economic Brief 21-26, August 2021, available at [https://www.richmondfed.org/publications/research/economic\\_brief/2021/eb\\_21-26](https://www.richmondfed.org/publications/research/economic_brief/2021/eb_21-26).

equitable access can also help to lessen workloads across various departments, including benefit payment control, improper payment recovery units, adjudication, and appeals.

- iv. ***Soliciting Community Feedback.*** Opportunities for states to enhance equitable access should be informed by the communities they serve. 29 CFR § 38.40 requires UI agencies to conduct affirmative outreach, and delineates forms of that outreach, to ensure that they are providing effective and meaningful access to members of various groups protected by law. The Department strongly encourages states to solicit input and active participation from the communities they are serving—including those communities that have been marginalized in the past. Among other feedback, community representatives may indicate whether translations into languages other than English are effective and culturally competent. The experiences of these communities should inform the problems states identify, the solutions they explore, and the ways they implement and evaluate their programs. Community feedback can include getting feedback from claimants themselves, as well as from claimant-focused organizations, including legal aid and other claimant advocacy groups, disability leaders and advocacy groups, community-based organizations, and labor unions. Several states have included more diverse representatives on formalized UI advisory boards, outside of labor union and business leaders, and the Department considers such structures for input to be a best practice within the limits of state law. States can also consider leveraging relationships with other community members, such as librarians, social workers, case workers, and more. The Department has issued grant opportunities to states under UIPL No. 11-22 to create Navigator Programs that help workers learn about, apply for, and if eligible, receive UI benefits and related services and to provide other Department-sponsored support and technical assistance. States should partner with community-based organizations (*i.e.*, sub-grantees) to engage in activities that include outreach, training, education, and general assistance with completing applications for unemployment benefits.

- d. **Promising Practices for Designing Technology and Modernization Efforts to Ensure Equitable Access.** UIPL No. 02-16 explains that “state UI agencies must ensure that the use of new technologies and systems for administering UI programs and providing services do not create barriers (e.g., procedural, technological, or informational) that may prevent individuals from accessing UI benefits, such as by denying them a reasonable opportunity to establish, and maintain, their eligibility.” The design and use of technology can create barriers to equitable access, but it can also help relieve existing barriers if designed well and reviewed for continuous improvement.

For example, the availability of closed captioning can help those with hearing impairments obtain information, but it can also aid other claimants by providing an additional way of receiving and processing information. This approach aligns with the principals of universal design, which calls for systems to be designed so they can be accessed to the greatest extent possible by all people regardless of their ability or disability, with all populations benefiting from the design changes that benefit people



with disabilities. Universal design is a recommended practice for compliance with Section 508 of the Rehabilitation Act.<sup>14</sup>

States should think through all aspects of their technology and modernization efforts and intentionally build in safeguards to detect and prevent inequities as part of their quality control measures. This includes an evaluation of claimant-facing materials and agency-facing tools, discussed in more detail below. Technological solutions should include methods for testing, monitoring, and improving how systems are used internally and externally; how successfully claimants can access and navigate the UI system; and how to best support claimants to complete UI processes and requirements. Engaging community partners that support historically underserved or marginalized populations should be a routine part of the design and testing processes undertaken by states when offering technological improvements to the UI system.

i. ***Strengthening Equitable Access with Claimant-Facing Materials.***

A. *Improving decision making by reducing and continually refining forced choices and adding open-ended response options.* States are required to fact find and determine whether claimants' circumstances meet the benefit eligibility requirements under state law. See Sections 303(a)(1) and 303(a)(3) of the SSA, and the Standard for Claim Determination (CD) found at 20 CFR Part 614, Appendix B. States are likewise responsible for creating ways for claimants to accurately provide information needed to determine eligibility.<sup>15</sup> One-way states can increase equitable access as well as the accuracy of their fact-finding tools is through options for open-ended questions with free form text boxes rather than limiting a claimant's options to only pre-defined choices.

Forced choices exist when claimants must select from a list of pre-defined options, leaving them with no opportunity to provide an answer that more directly applies to their situation. Where claimants only have a set of pre-defined choices, they are forced to select something that is the closest fit to their situation, even if it does not accurately represent their situation. While such questionnaires may be an effective and efficient way to develop facts for an adjudication, not all claimant circumstances will fit into a system's generalized coding and organization for all types of eligibility and qualification issues.

When claimants must select from pre-defined choices that do not fully match their situation, it can lead to improper and inaccurate results. Forced choices may lead to: (1) the claimant being asked a subsequent series of questions that do not apply to them; (2) the claimant being

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<sup>14</sup> [Universal Design: What is it? | Section508.gov.](https://www.section508.gov/)

<sup>15</sup> See Sections 303(a)(1) and 303(a)(3) of the SSA, and the Standard for Claim Determination (CD) found at 20 CFR Part 602, Appendix A; See also UIPL No. 02-16 generally.

unable to submit the form without selecting an inaccurate option; and (3) the claimant's selection being treated as an admission and a basis for denial. Claimants with circumstances that do not fit into generalized categories or who have situations that cross into multiple categories may input data that could cause improper flags on their claims, which may lead to payment delays and/or erroneous denials of UI benefits and services. Any of these scenarios may lead to an improper payment, including an erroneous denial of UI benefits, as well as additional agency work.

Depending on the question being asked, states may be able to increase equitable access by combining pre-defined choices, which should cover the most common scenarios, with options for open-ended responses in strategic locations to improve accuracy and user access. States should also offer the ability for claimants to go back and edit their responses before the certification is posted or initial claim is submitted. States may consider limiting the characters allowed in the free-form response but should ensure that the limit allows a claimant to provide sufficient detail to meaningfully explain their position. Near the end of a fact-finding form, agencies may also consider offering options such as "other," "not applicable," "none of these options apply to my situation," "would you like to provide any other information?," or some other phrase that would then provide a free-form textbox for the claimant to explain their situation.

State UI agencies should continuously evaluate their processes to strike the proper balance between staff intervention and automated services. This balance should ensure that there are proper "off-ramps" to allow for staff intervention. Decision trees and pre-defined options should be continuously reviewed to improve equitable access throughout the state's fact-finding, investigation, and determination processes. States can analyze responses entered into open-ended boxes as a way to refine and make pre-defined choices more applicable and accurate to the types of situations claimants face. States can also use this information to understand which questions and decision trees would benefit from additional, new, or reworded pre-defined choices. Thus, the existence of open-ended text boxes can improve the design, function, and accuracy of time-saving dynamic questionnaires.

Standardization may create a barrier to access. States should evaluate and manage their systems' data to identify where systemic programming issues and possible equitable access issues exist based on the requirements explained in Section 4.a. of this UIPL.

EXAMPLE: A claimant is filling out the application for unemployment benefits. The company the claimant worked for within the last 18 months went through a buyout. The

claimant's position remained the same, but the company name changed. When filling out the prior employer(s) section, the claimant adds both employers – the name of the company at the time they were separated and the name of the prior owner of the same company. In order to move forward, the agency requires that the claimant select a reason why the work ended for each employer listed. None of the options include the claimant's situation – that the work did not end despite the company's transition. In order to move on and be able to submit the application, the claimant selects that they were discharged from the previously owned company. This selection then led the agency to unnecessarily perform additional separation qualification adjudication processes. Instead, state agencies should consider including a “none of these apply” option that opens up a free form response field for claimants to accurately provide the details of their situation. Adding this option provides an additional check point for states to learn where their pre-defined options reasonably capture the range of claimant experiences and where they do not.

- B. *Designing Forms and Decision Trees.* States should design forms to include questions aimed at soliciting information relevant to claimant eligibility or ineligibility. In general, states should *begin* the inquiry by looking for ways a claimant could be eligible. Starting with this perspective in creating the question could prevent the claimant from receiving an erroneous denial. States may benefit from testing the language with claimants themselves in a live setting to see what other questions should be added to account for facts that otherwise would have been learned in a conversational setting.

A strong promising practice to continuously develop decision trees and fact-finding forms involves states leveraging the appeals process to learn what additional information supporting eligibility or ineligibility was most commonly discovered at the appeals stage. States can use this information to redesign decision trees to account for needed alternative means for eligibility determinations and design fact-finding forms to better obtain that information. Reviewing the fact-finding form and the decision tree holistically will allow the state to provide claimants with better-fitting options and preempt issues that often lead to appeals and other rework.

EXAMPLE: If a question addressing availability asks the claimant whether they have access to a car, a claimant might mistakenly select an option saying they do not, thus indicating they are “unavailable.” But they might also have a friend who can drive them, or have access to public transportation, meaning they are not actually unavailable for work because they do not have a car. This

question presumes that a certain circumstance will always render a claimant ineligible, rather than considering the claimant's circumstances holistically.

States should consider external user testing with diverse users who may experience the access challenges identified throughout this UIPL to learn how claimants understand UI forms, jargon, and required next steps. This is also an opportunity to connect with community-based organizations who help claimants navigate the UI claims process to learn about confusing options, system errors, erroneous responses, the effectiveness of translations into languages other than English, and other important feedback. The Department's Office of Unemployment Insurance Modernization is available to assist with the development of user testing processes.<sup>16</sup>

- C. *Access to portals and platforms.* Existing legal requirements broadly create the basis for states to provide a claimant with access to their claim. Nondiscrimination requirements apply to all technology solutions including web-based services and applications. However, many UI claimants only access their UI claim through their mobile phone.<sup>17</sup> This is particularly the case for low-income claimants, who often rely on mobile devices as their only way to access the internet.<sup>18</sup> States should seek to ensure that their portals are mobile responsive and user-friendly.<sup>19</sup> In addition to providing required assistance in person and/or over the phone, states should use helper text on their online platforms that provides additional information in plain language covering commonly asked questions or areas of user confusion. As noted above, states must ensure that their websites convey in the appropriate languages how an individual may effectively learn about, participate in, and/or access the UI program. See 29 CFR § 38.9; see also UIPL No. 02-16 for more information regarding requirements for language access. State UI agencies should also continuously improve how and where they display general claim information, including certifications, fact-finding forms, and protests/appeals of (re)determinations, so that claimants have a better understanding of how to maintain eligibility.
- D. *Communicating next steps and using behavioral insights.* UI programs are complex, and claimants are not always clear about what they are required to do to file a claim and to maintain eligibility for that claim. However, there are tools states can use to improve the claimant experience and help them navigate the system. For example, states can use reminders and other behavioral insight tools to improve claimants' knowledge of what is expected

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<sup>16</sup> More information can be found at <https://www.dol.gov/agencies/eta/ui-modernization>.

<sup>17</sup> See the Pew Research Center's Mobile Fact Sheet, available at <https://www.pewresearch.org/internet/fact-sheet/mobile/>.

<sup>18</sup> Nearly 30 percent of young and low-income Americans rely on mobile internet, available at <https://technical.ly/diversity-equity-inclusion/mobile-internet-reliance-report/>.

<sup>19</sup> You can find more information at <https://www.dol.gov/agencies/eta/ui-modernization/blogs/go-mobile-friendly>.

of them when filling out required forms, completing UI requirements in a timely manner, and appealing disqualifying decisions. Behavioral insight research shows that sending reminders to claimants about documents that require responses (e.g., fact-finding forms, document requests) improves claimant response rates as well as the quality of agency adjudications. Given the greater usage of mobile devices among populations with historically low levels of access to UI benefits, text messaging technology should be considered as a means for communicating messages. See Training and Employment Notice (TEN) No. 15-21 and NASWA’s Knowledge Exchange Library at <https://library.naswa.org/bitoolkit>.

Claimants who are no longer collecting UI benefits may not understand that they still need to respond to agency notices to prevent the establishment of overpayments. Text message alerts can help explain why the claimant is being contacted so long after their claim and their timeframe to act as well as the importance for a claimant to go back into their account due to a new development on their claim. Similarly, states can use technology (e.g., text message reminders) to help claimants understand where they are in the UI eligibility determination process. A status tracker that explains next steps and indicates if the next step is the responsibility of the state or claimant, along with expected agency response times in processing a claim may also reduce claimant inquiries and confusion.

ii. ***Strengthening Equitable Access with Agency-Facing Tools.***

- A. *Ensuring proper conversion and system retention when updating language.* States are encouraged to continuously improve eligibility and fact-finding questions and forms. However, when states update language, prior claimant responses are not necessarily responsive to the new way the question is asked. It may not be accurate to connect a claimant’s prior answers to reworded questions. The state’s system should retain the records of the original question format for forms that were used at the time the claimant or employer submitted their responses. Failure to retain this information can lead to incorrect determinations. For example, if a claimant found a new job and stopped collecting benefits before the agency updated certification questions, it would not be proper for the state to apply the claimant’s original answers to the updated questions in a subsequent investigation of that claim.

One issue is that applying the answers to new questions may make it appear as though the claimant misrepresented information, possibly leading to an improper payment such as an erroneous denial and an unwarranted fraud investigation, or it could prevent an overpayment waiver. State agency staff reviewing claimant information must be provided with accurate information in order to make accurate determinations, and state systems should be reviewed and updated to ensure that they are presenting materials correctly. As an additional best practice, if a state updates any claimant-facing

questions, the state should alert all claimants with active or continued claims about the new question formats and provide a short summary of what information the state is attempting to solicit and/or how it is different than the earlier version of the question when they are certifying.

- B. *Presentation of fact-finding information to adjudicators.* The way that a state presents information to its adjudicators can influence decision making. Facts from interested parties, including from additional user sources (see the following section, 4.d.ii.C.), should be presented to the adjudicator in a neutral way such that the information does not pre-suppose the outcome of the determination or reflect a preparer or compiler's biases. In other words, adjudicators should be able to access the complete, original responses from the claimant and employer rather than only a summary. If data is being extrapolated from other sources to present to the adjudicator, the state should provide the adjudicator easy access to the original documentation to review and ensure that the information compiled is accurate and complete.
- C. *Pulling information from additional user sources.* States use various processes to gather relevant materials (e.g., preparing a case file, reviewing fact-finding responses and other investigation materials) for state staff to use in determining eligibility. As states are gathering materials to review for investigative and adjudication purposes (both through robotic process automation to gather information and manual collection), states should ensure that their review includes gathering all additional sources where parties may have supplied relevant information, such as emails or chat messages, any other portal method to communicate with the agency, a fax or letter that includes information regarding a claim, notes from the claimant's in-person or phone visits, etc.

Further, claimants might hire an attorney or agent, and submissions provided by these entities should be available to staff and should be attached to the claim.<sup>20</sup> States can ideally achieve this inclusion through technology enhancements (e.g., case management software). With or without case management software, states should continuously review all avenues where claimants provide information and ensure that the state's system properly gathers, documents, and presents the information to adjudication staff. States should also train staff on existing systems to ensure that all possible relevant areas within the system are reviewed before issuing a factfinding form or making a determination.

States can also look at Benefits Accuracy Measurement (BAM) and Benefit Timeliness and Quality Reports (BTQ) data to find areas where determinations consistently fail and train staff on where to find that

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<sup>20</sup> There may also be an opportunity for state agencies to consider creating web-based service for advocates to manage their claimants' claims, linking the claimant and their advocate's accounts for streamlined information collection.

information. In addition to BAM and BTQ quality control measures, states should review and maintain all the different touchpoints that a claimant may have with the system and how it impacts access to benefits and payment accuracy.

EXAMPLE: A claimant might not have responded to a state's request for information because they previously had a phone call, web-based chat, or email exchange with an agent and believed they already provided the information to the state. Before issuing a fact-finding form or making a determination, the state should review all available information regarding communication with the claimant that may be relevant to the issue at hand. This includes ensuring that the state has adequate processes across phone and web-based platforms to properly document to the adjudicators the claimant's supplied information.

5. **Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.

6. **References.**

- 29 U.S.C. §2841 (Establishment of one stop delivery systems);
- 29 U.S.C. §2938 (Nondiscrimination);
- 29 U.S.C. §794 (Section 504 of the Rehabilitation Act of 1973);
- 29 U.S.C. §794d (Section 508 of the Rehabilitation Act of 1973);
- 42 U.S.C. §§ 6101-6107 (Age Discrimination Act of 1975);
- 20 U.S.C. §§1681-1688 (Title IX of the Education Amendments of 1972);
- 42 U.S.C. §§12131-12134 (Americans with Disabilities Act of 1990, Title II, Subpart A);
- Section 303 of the Social Security Act (SSA) (42 U.S.C. §503);
- 20 CFR Part 625;
- Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128) (July 22, 2014);
- Workforce Investment Act (WIA) of 1998;
- 29 CFR Part 38;
- 29 CFR Parts 31-33;
- 29 CFR Parts 35-36;
- OMB Control Number 1205-0009;
- OMB Control Number 1225-0077;
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d;
- Plain Writing Act of 2010, Pub. L. No. 111-274 (codified at 5 U.S.C. § 301 note)
- Executive Order 14091, "Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," issued February 16, 2023, <https://www.whitehouse.gov/briefing-room/presidential->

- [actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/](https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/);
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  - UIPL No. 11-23, *Announcement of Grant Opportunities and National Identity (ID) Verification Offering under the American Rescue Plan Act (ARPA)*, issued on July 13, 2023, <https://www.dol.gov/agencies/eta/advisories/uipl-11-23>;
  - UIPL No. 09-23, *Additional Planning Guidance for the Fiscal Year (FY) 2024 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued on June 30, 2023, <https://www.dol.gov/agencies/eta/advisories/UIPL0923>;
  - UIPL No. 03-23, *Availability of U.S. Department of Labor (Department) Funded Resources and Services to State American Rescue Plan Act (ARPA) Grantees*, issued March 6, 2023, <https://www.dol.gov/agencies/eta/advisories/uipl-03-23>;
  - UIPL No. 11-22, *Grant Opportunity for States to Participate in the American Rescue Plan Act (ARPA) Unemployment Insurance (UI) Navigator Program*, issued January 31, 2022, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-11-22>;
  - UIPL No. 10-22, *Fiscal Year (FY) 2022 Funding Allotments and Operating Guidance for Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grants*, issued January 21, 2022, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-10-22>;
  - UIPL No. 02-22, Change 2, *Extension of Time for States to Express Interest in the Grant Opportunity Announced in Unemployment Insurance Program Letter (UIPL) No. 2-22 to Support States Following a Consultative Assessment for Fraud Detection and Prevention, Promoting Equitable Access, and Ensuring the Timely Payment of Benefits, including Backlog Reduction, for all Unemployment Compensation (UC) Programs*, issued September 19, 2022, <https://www.dol.gov/agencies/eta/advisories/uipl-02-22-change-2>;
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- Ensuring the Timely Payment of Benefits, including Backlog Reduction, for all Unemployment Compensation (UI) Programs*, issued November 2, 2021, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-02-22>;
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  - TEN No. 17-19, *Model Unemployment State Work Search Legislation*, issued February 10, 2020, <https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-17-19>;

- GAO-21-599R, *Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic*, published Jun 17, 2021, <https://www.gao.gov/assets/gao-21-599r.pdf>;
- GAO-22-105162, *Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks*, published Jun 07, 2022, <https://www.gao.gov/assets/730/720919.pdf>;
- Characteristics of Unemployment Insurance Applicants and Benefit Recipients, U.S. Bureau of Labor Statistics, last modified on November 7, 2019, <https://www.bls.gov/news.release/uisup.toc.htm>; and
- UI Modernization Website, <https://www.dol.gov/agencies/eta/ui-modernization>.

## 7. Attachments.

- **Attachment I:** General Application of Equitable Access to the UI Program and Graphical Representation of the Claimant Journey.
- **Attachment II:** Technical Assistance and Resources for States Regarding Equitable Access to the UI Program.

## General Application of Equitable Access to the UI Program and Graphical Representation of the Claimant Journey

This attachment describes how states may continuously improve equitable access by building safeguards into their systems to detect and rectify gaps in access. It also provides a graphical representation of the claimant journey discussed in Section 4.c.i. of this UIPL. The information below is not exhaustive. Reviewing for equitable access requires ongoing attention, particularly as states evolve their processes and requirements and update their technology.

For each step of the claim cycle, the Department encourages states to conduct iterative reviews to improve equitable access across their systems. Mapping the claimant's journey can be an informative tool for states to identify opportunities to create more accessible programs for all demographic groups. Below are the broad steps that each claimant takes, but specific maps can be made based on each state's laws, policies and procedures. Importantly, states' nondiscrimination obligations extend to their own employment practices. See 29 C.F.R. §§ 38.2(a)(3) and 38.4(s). State UI agencies can benefit from having a diverse staff that reflects the state's demographics. Some benefits of this practice include the ability of a state agency to foster trust within the communities it serves and to better communicate with its stakeholders.

- 1. Before the claim is filed.** Potential claimants may have limited knowledge about the UI program, including whether they may be eligible for unemployment benefits and how to complete the application process. According to U.S. Bureau of Labor Statistics (BLS) data, most unemployed workers did not apply for unemployment primarily because they were confused about whether they would be eligible.<sup>21</sup> Interestingly, BLS found that workers with higher educational attainment were more likely to apply for unemployment benefits. State UI agencies can expand access to the UI program by extending the reach of web-based and print resources that explain eligibility and qualification requirements and how to apply for UI. Print resources can be distributed in community locations, like libraries, secretary of state and DMV offices, and community-based organizations. Additionally, UI agencies can focus on disseminating information about the UI program in areas and industries where unemployment issues are more pervasive. In addition to ensuring print and web-based resources are more widely available, states can expand access by improving the quality of these resources and by drafting them using plain language. States can user-test print materials, portals, and websites with prospective claimants. They can also take steps to ensure materials are user-friendly (*e.g.*, by creating videos about difficult parts of the application and certification process, making resources easier to find, etc.) and translated into languages other than English, particularly those reflecting significant language groups of the State.
- 2. Initial claims application.** The initial claims application is the gateway for claimants to learn about and access the UI system. States should design the application with the claimant

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<sup>21</sup>This is based on an extensive analysis BLS performed of its 2018 data. See U.S. Bureau of Labor Statistics, Employment and Wages, <https://www.bls.gov/opub/ted/2019/most-unemployed-people-in-2018-did-not-apply-for-unemployment-insurance-benefits.htm>.

in mind, should conduct user testing of the web-based and offline processes with individuals who are external to the state agency and should continuously solicit feedback from the community, including claimants, advocates, and claimant groups. Moreover, states should look for common user errors and process misunderstandings as claimants complete the application so that the state can update and improve this initial access point. Finally, after the application is completed, states should consider using a status tracker or other similar method to help claimants understand where their claim is in the process and what is required of them to maintain their eligibility throughout their claim. With regard to access to languages other than English, consistent with the U.S. Web Design System, a state’s “language selector” or indicator should have “consistent placement, interface, and behavior of the language selection component [that] allows users to easily find and access content in the language the user is most comfortable in.” After an individual indicates their preferred language – having been encouraged to/supported in doing so, all subsequent communications should be made in the preferred language.

- 3. Identity authentication and verification.** Detection and prevention of identity (ID) fraud is critical for states to maintain UI program integrity. However, these efforts should not create undue burdens or barriers to claimants’ ability to access UI benefits and services. States should regularly monitor the outcomes of their fraud risk scoring methodologies by reviewing data and create solutions to ensure that all legitimate claimants are able to verify their ID by using both web-based and non-electronic methods.

Someone who does not complete or fails ID verification is not necessarily a fraudulent actor. There are many reasons why legitimate claimants may not be able to complete or successfully complete these requirements (*e.g.*, the claimant submitted ID verification information but did not provide enough information or provided the wrong information, administrative barriers prevented the claimant from being able to access the system to complete requirements, the claimants name changed due to marriage, or the claimant underwent a gender transition, etc.). State UI agencies are required to have, and to make claimants aware of, alternatives to online methods of verifying their identities, for example, in-person or by phone. See UIPL No. 2-16 and UIPL No. 2-16, Change 1 If a claimant initially chooses to complete ID verification online, but is unsuccessful, the state should again provide the information regarding alternative methods.

ID proofing, while often conducted through a credentialed service provider (CSP), is only one of many options for UI ID proofing.<sup>22</sup> When using a CSP for ID proofing or a third-party solution, ETA recommends that states establish within their contracts a process to receive Personally Identifiable Information (PII) and data on an individual’s ID proofing status (*i.e.*, verified, not verified, pending, inconclusive) within a service provider’s system or solution. See UIPL No. 22-21, Change 2 and its attachments, including contractual provisions for CSPs. To be able to properly respond to customer inquiries, states should have access to such information in real-time (if possible), but no later than 24

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<sup>22</sup> National Institute of Standards and Technology (NIST) Special Publication (SP) 800-63 defines a credentialed service provider (CSP), as a trusted entity that issues or registers subscriber authenticators and issues electronic credentials to subscribers. A CSP may be an independent third party or may issue credentials for its own use.

hours after an individual started the ID proofing process and whenever there is a change in the ID proofing status. By knowing the individual's ID proofing status, the state can also ensure that appropriate instructions and next steps are provided to the individual. The Department outlined stringent technical, service level, business performance, and equity requirements in its solicitation for ID proofing services described in TEN No. 06-21. ETA recommends that states incorporate similar provisions in their ID proofing solicitations and contracts with service providers.

When a state notices that individuals are unable to verify their ID through web-based or self-service means, or the state flags individuals as suspicious with automated cross-matching or data analytics activities, states must generate and retain documentation of these instances. States are also required to investigate the flags and make appropriate determinations so that eligible claimants are able to access UI benefits without undue barriers or delay. The state UI agency should then analyze the data to determine if the state's ID proofing system, fraud detection and prevention solutions, cross-matching and data analytic parameters, or service provider(s) correctly identified fraud or incorrectly flagged claimants. In line with their nondiscrimination obligations under 29 CFR §38.51, states should conduct statistical or other quantifiable data analyses to determine whether their fraud detection systems are disproportionately flagging certain groups. States should improve their systems to address improper flags and related adjudication issues. See UIPL No. 11-23 and UIPL No. 09-23. States must work with their service provider(s) or with in-house fraud management staff to identify the root cause of the issue, resolve the issue, and improve the ID proofing process and other improper payment processes to continually strive for balance between ensuring eligible claimants maintain access to benefits while also stopping fraudulent actors. See UIPL No. 11-23 and UIPL No. 09-23.

Efforts to address equity in the ID authentication and verification processes must also include ensuring there are alternatives to digital mechanisms of identity proofing and that the mechanisms used to prove identity or indicate potential fraud do not contain bias.

- 4. Completing work search activities.** The requirement for a claimant to actively seek work is a leading cause of errors prompting improper payments for the UI program nationally. The work search requirement may come into play at various stages of the claims process, as some states require registration for work at the beginning of a claim as well as requiring weekly work search activities to remain eligible for benefits. A review of equitable access with respect to work search requirements involves discovering common sources of claimant confusion and implementing solutions that help claimants better understand work search requirements, including how to document work search contacts and activities. As mentioned previously, many claimants are new to the UI process. Thus, it is important for claimants to be supported throughout the UI process and reminded of all steps in the process, including the weekly obligation to conduct a work search for suitable employment. Training and Employment Notice (TEN) No. 17-19 provides additional information on how states might review acceptable work search activities and how such expectations are communicated with claimants. See the work search reminder messaging discussed in the Behavioral Insights Toolkit described in TEN No. 15-21.

5. **Continued claims certification.** The continued claims certification ensures that claimants continue to meet program eligibility requirements. See Section 4.a. of UIPL No. 23-20. Questions regarding ongoing eligibility requirements can be complex, and simple responses can raise eligibility issues. Ordinary words take on UI-specific meanings unknown or unfamiliar to many claimants. Mistakes and confusion regarding continued claim certifications can trigger eligibility issues, improper payments (including erroneous denials), and hours of extra work for states. States should spend time to conduct external user tests across diverse populations and iterate on the phrasing of claimant facing documents, develop agency aids (*e.g.*, helper text, handbooks, video tutorials, and glossaries of specialized terminology in languages other than English), and provide clear options for claimant selection that help the claimant properly convey eligibility information to the agency. Continued claim certifications should incorporate lessons learned from the equity-based review as mentioned above in Section 4.d. of this UIPL.
6. **Fact finding and resolving eligibility issues.** Accurate and timely responses to fact-finding questions lead to the accurate and timely resolution of eligibility issues. States should incorporate equity-based review, as mentioned above in Section 4.d. of this UIPL, to design questions and answer choices. Claimants may also need additional help to understand why they are required to submit fact-finding forms, as claimants are often unaware of potential eligibility or qualification issues after their payments have begun. For example, claimants often struggle to understand the requirement that they be able and available for each week they are collecting benefits. Providing claimants with helper text, videos, and further information about specific UI terms may help some claimants answer appropriately.

There can be a cascading effect related to claimant misunderstandings in the UI system. A misunderstanding in the initial application or continued claim certification may trigger potential eligibility issues on the initial and then subsequent claims. One way states can further improve their fact finding would be to allow claimants opportunities to give context to avoid misunderstandings that may arise due to the complexity of UI laws and related jargon. (*i.e.*, the definition of “available” in UI is not the same outside of UI). States should craft fact-finding questions neutrally, rather than forming them based on assumptions from previous submissions. For example, a claimant who does not have childcare at the time of certifying for UI benefits is not necessarily “unavailable” in the UI context, especially if they could secure childcare if they were offered a job. If a claimant answered that they were unavailable because of a lack of childcare the state agency, in its fact-finding phase, should clarify the meaning of available for work and why they are asking the question to the claimant. Further, state UI agencies should ask additional questions (*i.e.*, if you were offered a job, could you find childcare) to ensure the claimant is truly unavailable and understands the potential consequences of being unavailable. States should also allow for claimants to answer in a free-form response regarding their eligibility, which may also clear up misunderstandings and allow the agency to resolve the issue accurately. Limiting the claimant’s options based on prior responses can lead to a compounding mistake and denies claimants a chance to correct their misunderstanding of the process and UI terms. This information, analyzed over multiple cases, can be leveraged to improve both the underlying forms (application and certification) as well as the state’s fact-finding questions in general. States should also conduct external user testing.

When using pre-defined options for fact finding, as discussed in Section 4.d. of this UIPL, states should continuously review and improve their fact-finding decision trees based on user input or testing. While the initial adjudication process and the appeals process are two separate administrative procedures with different ways of gathering information from interested parties, states can analyze appeal reversals to identify opportunities to improve fact-finding questions and selection options. Further, regular meetings between UI Benefits leadership and Appeal and Adjudication staff can identify gaps in knowledge, for both UI Benefits leadership and Appeal/Adjudication staff, and identify training needs.

Importantly, many improper payments are created because claimants do not respond to agency's fact-finding questions. Sending claimants reminders to respond to fact-finding requests can lead to higher submission rates. However, claimants may believe they have already provided the information to the agency in prior submissions, or claimants may not understand what information the agency is seeking. Claimants often receive many letters from the agency. Some letters require claimants to take an action, others are informational. The more letters a UI system issues, the harder it is for claimants to follow what is being asked of them. This is an important balance to keep in mind as states develop communication methods with claimants. See Section 7 below for more information.

- 7. Correspondence and adjudication.** The UI program is complex. Because of this complexity, states often send several separate documents over the course of a claimant's single claim for benefits. Some documents require claimants to respond while others are purely informational. Where feasible, states should consolidate and streamline correspondence with claimants to limit confusion. Furthermore, states should clearly state if a communication is simply sharing information or if it requires the claimant to take action. Information about the availability of auxiliary aids and services for individuals with disabilities (including documents in alternative formats), and how to request them, should be prominently displayed across different platforms. Additionally, if agencies can re-write their correspondence to claimants in plain language and ensure applicable translation services during all stages of the claimant journey, fewer misunderstandings may occur, thereby reducing the number of claims requiring fact finding and further adjudication. It's important to apply plain language review to important documents and to clearly explain the requirements of the program, why the agency needs the information, how the requested information may affect the claim, and how failing to respond to the request for information may result in a delay or denial of benefits. The state may also consider sending out reminders to claimants when the agency requires a response. Further, following an individual's indication of preferred language, subsequent communication should be made in the language other than English. Behavioral insights have shown that sending reminders to claimants about documents that require responses has improved the claimant response rate and has also improved the quality of agency adjudications. See TEN No. 15-21.

Additionally, states should consider making use of multiple ways to inform claimants about the agency's correspondence and action items – including sending text messages and emails to alert claimants to new messages sent via mail and uploaded to the claimant portal. State agencies should also consider sending portal correspondence via mail because, of the array of pitfalls with auto-defaulting to only portal notifications, especially for claimants with limited

access to or understanding of technology. For example, some claimants may not have reliable access to the internet or a computer and can only receive mail correspondence, whereas others may be experiencing housing insecurity and have no access to mail, but could access the portal through a phone, a library, or in a state office. When claimants receive reminders in multiple formats, all claimants, will be better able to maintain access to their claim.

8. **Appeals.** States should consistently review the types of issues being appealed and whether certain issues are more prevalent for individuals in certain demographic groups. Likewise, states should consistently review what types of cases are reversed on appeal and whether there are any demographic groups affected by a higher reversal rate. Understanding why cases were appealed and, where applicable, reversed on appeal may provide insights into what additional questions could have been asked during the initial adjudication process or areas that may have been confusing for groups of claimants. States can also leverage this data to train adjudicators which may help to avoid future appeals issues.

Equity analysis calls for states to identify and improve upon areas that may be challenging for claimants to navigate as they apply for and maintain benefits. One way to do this is through analyzing denial rates by category (*e.g.*, monetary determination and each type of non-monetary determination) broken down by demographic group. See UIPL No. 11-14. The state can then review this data and should address the challenges identified. See UIPL No. 11-14.

EXAMPLE: If more people from a certain geographical area are missing the deadline to appeal or fail to respond timely to fact-finding requests, analyzing appeals data related to late appeals or failures to report could produce an opportunity to learn why. Perhaps they are not responding timely because mail is delayed getting to them, or perhaps they lack access to the technology or to the internet to respond in time.

9. **Analyzing improper payments (where applicable).** States must have systems reasonably calculated to ensure that claimants are not underpaid, erroneously denied, or overpaid. When underpayments, including erroneous denials, are discovered, state agencies must ensure that the decisions are corrected in accordance with state law, and benefits are properly dispersed to the claimant. To improve internal system processes, states should review the underlying reasons why underpayments, overpayments, and erroneous denials are happening and to whom they are happening. Even if a state has a finality law that may prevent correction of an underpayment, overpayment, or erroneous denial, the state UI agency will still benefit from understanding how the mistake occurred so that it can take steps to correct any issues that are within the state's control for current and future claims. States must continue to strive for prompt detection of underpayments, overpayments, and erroneous denials. State UI agencies can leverage the Benefits Accuracy Measurement (BAM) and Benefit Timeliness and Quality Reports (BTQ) programs' analyses of improper payments and improper denials to identify systemic issues and how regular communications between the BAM program staff



and other areas of the state UI agency are necessary to ensure the reduction of improper payments and improper denials.

Claimants may make errors that can lead to overpayments, but it should not be presumed that the claimant is at fault. In providing equitable access, states should further analyze the agency processes that may have resulted in non-fraudulent errors, regardless of with whom fault lies. When assessing whether a claimant is at fault for the overpayment, states should consider factors that may have contributed to the claimant's responses. Some common examples of contributing factors include:

- misunderstanding the question because the language used was too complex,
- sending individuals with disabilities documents that are inaccessible to them due to their disability,
- not understanding the form due to a lack of English proficiency or not knowing how to get the form in their native language (or the state not having translations of forms in the claimant's native language), and
- confusion about which agency documents require claimant responses (when multiple documents were sent within a short period of time).

States should continuously review the basis for all types of improper payments to improve their own internal procedures. States should also ensure that they are establishing and maintaining equitable channels for claimants to complete waiver processes and consider utilizing overpayment waivers, where state law permits, especially when the cause of the overpayment may be due to an equitable access issue.

States should ensure claimants understand why the overpayment exists, including what determination(s) led to the UI benefit denial, regardless of whether a waiver is granted. This communication should be in plain language and should be in the claimant's preferred language. If the claimant's preferred language is not known and/or translation into that language has not been done, the communication should include a clear explanation of how to get translation or interpretation services. Claimants may be able to provide the correct evidence to allow a state to quickly reverse the underlying determinations establishing non-fraudulent overpayments when they have clear determinations that explain why the agency made the decision it did (*e.g.*, the agency is issuing a denial determination because of a specific issue and the agency did not receive information from the claimant to make a proper decision; the claimant now owes money because they are being denied benefits that were previously paid, and the claimant has the right to appeal the decision and provide any needed information if they disagree with this decision).<sup>23</sup> Further, states must include

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<sup>23</sup> States are required to abide by proper notice requirements. In the Standard for Claim Determination, the Department interprets the Federal UI requirements for providing claimants notice. Section 6013.C.1.c. of the Standard for Claim Determination (see Employment Security Manual, Part V; Section 6010-6015) provides that the state agency must give each claimant a written notice of any determination that adversely affects his or her rights to benefits. Section 6013.C.2 provides that this written notice of determination(s) to claimants must furnish "sufficient information to enable them to understand the determinations, the reasons therefor, and their rights to protest, request reconsideration, or appeal." The information that must be provided to the claimant in the notice of determination includes an explanation of the disqualification or ineligibility, the source of information about the reason for

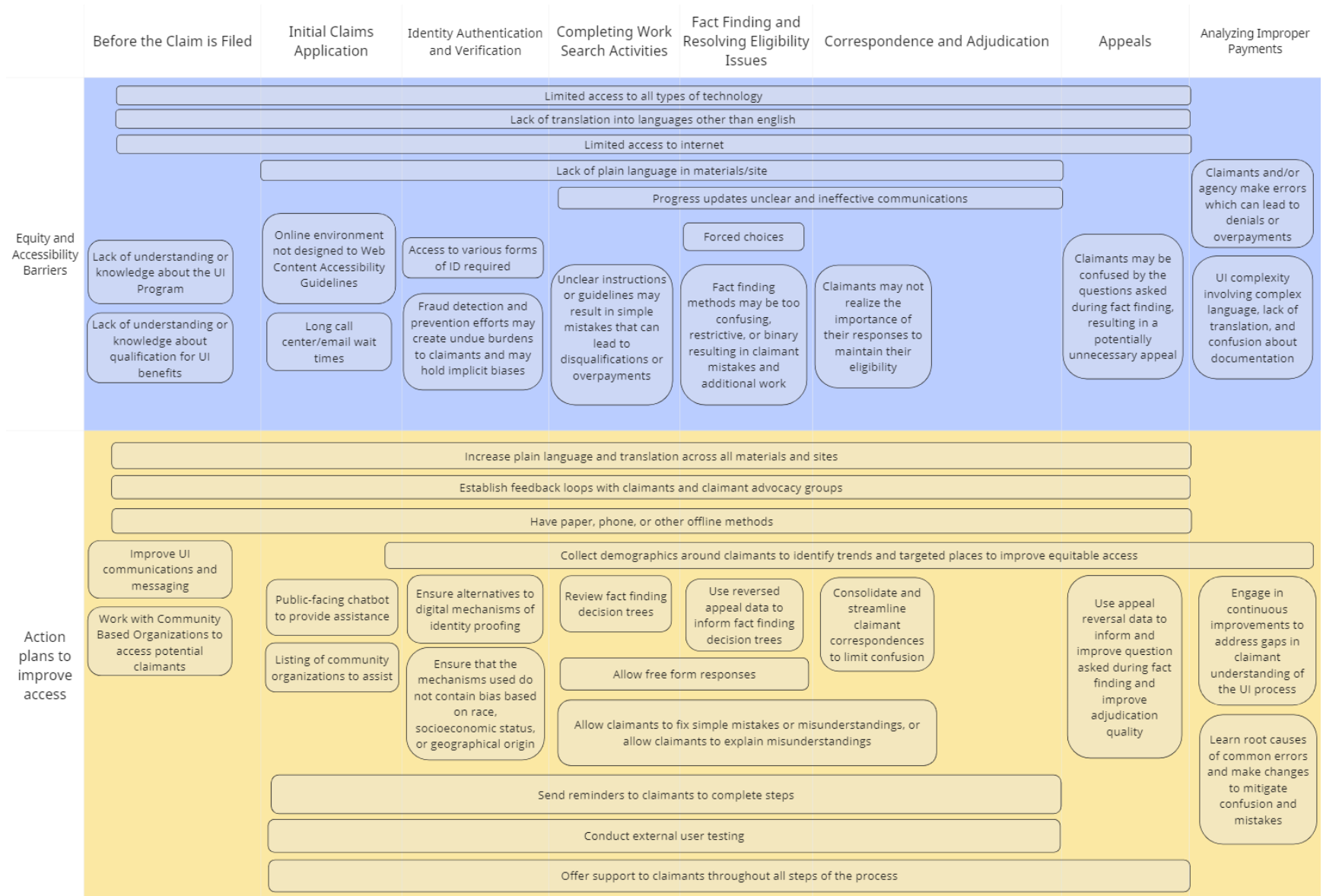
information on the process for obtaining a waiver. Clarifying this part of the process may also allow claimants to provide the needed information to resolve underlying eligibility issues.

- 10. Analyzing demographic data:** Some states have analyzed UI demographic data in partnership with higher education institutions. Higher education institutions can also leverage other data sources, such as those collected by the U.S. Census Bureau, to give state agencies a broader understanding of unemployment insurance reciprocity and application rates among historically marginalized communities.
- 11. Graphical representation:** See the next page for a graphical representation of the claimant journey that encompasses some, but not all, potential claimant equitable access barriers and possible action plans. The graphic includes each step of the claimant journey as identified in steps 1-9 in this Attachment across the top of the document. In blue, the graphic identifies various barriers that claimants may face throughout each of the identified phases of the claimant journey. In yellow, the graphic provides some ideas for states to consider tracking, mitigating, and resolving the negative effects of these barriers, which in turn will allow the state to create plans for continuous improvement.

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disqualification, and a statement of appeal rights. Thus, while states may offer claimants a variety of methods to receive information, the content of a written determination, whether it is a letter mailed to the claimant or provided in an electronic medium, must comply with the requirements in the Standard for Claim Determination specified above. States must choose a method of communicating determinations with claimants that ensures the claimant will receive the determination. States may also want to consider the equity implications of their timeline and methods of appeals to better address equitable access.

## Attachment I to UIPL No. 01-24



## **Technical Assistance and Resources for States Regarding Equitable Access and the UI Program**

The Department is available to provide technical assistance to states regarding equitable access to UI benefits and services. The national office has recently added additional technical assistance staff and training capacity to assist states in implementing this program letter and related equity initiatives. States should contact their regional office to express interest in technical assistance to help implement any of the suggestions made in this guidance. In addition, the Department's focus on equitable access at the time of publishing this UIPL currently includes the following initiatives for states to secure funding and other supportive resources:

- i. ***Grants to States to Participate in a Tiger Team Engagement.*** The Department is sponsoring consultative assessments that leverage a multi-disciplinary team of experts (*i.e.*, Tiger Teams) that work with states to recommend and fund grant projects to improve services across the three ARPA pillars – equitable access, timeliness and backlogs, and fraud detection and prevention. As states participate, the Tiger Teams document recommendations and promising practices that will benefit the state's UI program. See UIPL No. 02-22 and Section 4.e. of UIPL No. 11-23. Examples of the equitable access recommendations include Simplified Communications (plain language), Standardized Translation Services, Building Pathways to Equity and Access, Proactive Status Updates, Web Content Accessibility Guideline Reviews, Establishing Equitability and Accessibility Data and Metrics, Community Engagement, and Building Feedback Loops. See [https://oui.doleta.gov/unemploy/pdf/TigerTeamCohortTrendsJune\\_2022.pdf](https://oui.doleta.gov/unemploy/pdf/TigerTeamCohortTrendsJune_2022.pdf).
- ii. ***Grants to States to Promote Equitable Access.*** The Department provided around \$220 million to over 45 states in grants that promote equitable access to UI Programs. The grants have been awarded for projects aimed at eliminating administrative barriers to benefit applications, reducing state workload backlogs, improving the timeliness of UI payments to eligible individuals, and ensuring equity in fraud prevention, detection, and recovery activities. See UIPL No. 23-21. Trends from across the states' equity applications can be viewed here: [https://oui.doleta.gov/unemploy/pdf/AIR\\_ARPA\\_StateEquityGrantsSummaryMemo\\_Final.pdf](https://oui.doleta.gov/unemploy/pdf/AIR_ARPA_StateEquityGrantsSummaryMemo_Final.pdf).
- iii. ***Grants to States to Participate in the UI Navigator Program.*** The Department selected seven states to partner with community-based organizations experienced in assisting UI claimants and unemployed job seekers to engage in activities that include outreach, training, education, and general assistance with completing applications for unemployment benefits, especially individuals in groups that are historically underserved, marginalized, and adversely affected by persistent poverty and inequality. The Department provided over \$18 million dollars to the selected states. At this time no new funding for navigator grants is available. See UIPL No. 11-22.

- iv. ***Equity Data Working Group.*** The Department’s Chief Evaluation Office is working with selected state partners and conducting descriptive analyses of UI program data to help understand demographic and geographic patterns in UI applications, benefit receipt, and benefit denials to improve equity in the UI program. State partners will benefit from national technical experts in UI who will use advanced analytics to conduct a detailed equity analysis, as well as lay the groundwork for future state-driven data analysis to help improve UI policies and operations, especially as they relate to equity issues.

In the context of federal regulations, some states have conducted such demographic UI analyses in partnership with public higher education institutions. Public higher education institutions can also leverage other data sources, such as those collected by the U.S. Census Bureau, to give state agencies a broader understanding of unemployment insurance reciprocity and application rates among historically marginalized communities. The Department’s Equity Data Partnership initiative can also assist in this type of data analysis.

- v. ***Workforce GPS.*** The Department maintains resources, such as the UI Equitable Access Toolkit, for state agencies on the Unemployment Insurance Community of Practice on Workforce GPS available at: <https://ui.workforcegps.org/>. The Department will continue to post additional supportive materials related to equitable access.
- vi. ***Office of Unemployment Insurance Modernization.*** The Department’s Office of Unemployment Insurance is developing services to assist states with equitable practices, including plain language conversions, analyses of customer experiences and assistance with design of frictionless digital experiences. States can contact their regional office to inquire about assistance in implementing these best practices. The Department has also made available a reference site where promising practices and materials related to IT modernization and updates from Department-sponsored engagements are housed. It is located at <https://www.dol.gov/agencies/eta/ui-modernization>.