

Action area 5

Ensuring equitable access to robust benefits and services



Building Resilience:

A plan for transforming unemployment insurance

Action area 5

Ensuring equitable access to robust benefits and services

Despite its important relief and stimulative effects, unemployment insurance (UI)'s reach across unemployed workers remains uneven, and, in several states, benefit adequacy is of major concern. A 2021 report commissioned by the Department of Labor (the Department) found “dramatic disparities [in UI reciprocity] between demographic groups, with lower reciprocity rates among racial and ethnic minorities, younger workers, and less-educated workers.”⁸⁹ Such disparities persisted during the COVID-19 pandemic, a period of unprecedented federal UI expansion, and are despite these workers' consistently elevated unemployment rates relative to the national average.

Select administrative and operational barriers serve as important hindrances to achieving equity in the UI system. State UI programs have historically lacked structures for communicating with workers about their potential benefit eligibility, the application process, and how to fulfill requirements for continuing to receive benefits. Further, complicated application and weekly certification processes, including use of highly technical language or jargon, limited translation options, and a lack of mobile-friendly options, frequently discourage eligible unemployed workers from accessing essential income support. The deployment of new state UI technologies has not always enhanced equity and accessibility, especially for populations that lack access due to language barriers, technological literacy, or lack of resources.

This helps explain the persistent finding that most unemployed workers fail to apply for UI in the first place. For example, in 2022, nearly three-quarters of the unemployed who worked in the previous 12 months had failed to apply for UI after separating from their last job; this figure was only slightly lower among workers traditionally eligible for UI, including people who had lost their jobs or completed temporary jobs (63 percent).⁹⁰

⁸⁹ Eliza Forsythe and Hesong Yang, *Understanding disparities in unemployment insurance reciprocity*, (submitted by University of Illinois, Urbana-Champaign to the U.S. Department of Labor, November 12, 2021), www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf.

⁹⁰ Department of Labor, Bureau of Labor Statistics, *Characteristics of Unemployment Insurance Applicants and Benefit Recipients News Release* (March 29, 2023), www.bls.gov/news.release/uisup.htm.

Importantly, outdated federal and state laws that penalize or exclude lower-paid and part-time workers, independent contractors, and those forced to leave a job for family, health, or safety concerns also contribute to significant demographic disparities and overall declines in UI reciprocity.⁹¹ As stated above, barriers to access to benefits can also contribute to the UI system's challenges with overpayments. For example, ensuring adequate translation options reduces the likelihood a UI applicant will answer a question inaccurately and thereby create an erroneous benefit payment.

Congress recognized that these holes in the UI system would cut millions of workers off from vital income support and deprive the economy of macroeconomic stabilization during the pandemic and created the Pandemic Unemployment Assistance (PUA) program, which became a central part of the UI system in 2020. Congress made program design choices that were meant to accelerate payment delivery during a period of remarkable economic uncertainty for the nation, which, when combined with decades of administrative underinvestment, left states vulnerable to fraud attacks. These risks could be alleviated if the permanent UI system were designed to respond to the needs of a diverse workforce during a national crisis.

The UI system is also weakened by eroding benefit adequacy. While UI benefits are typically designed to replace half of lost earnings, up to a statutory maximum in each state, the national replacement rate has averaged about 35 percent since 1950 and trended downward since the 1970s.⁹² Research suggests that the decline in replacement in many states is due to stagnant maximum benefit amounts.⁹³ As of January 2024, 14 states, including nine Southern states and Puerto Rico, provided less than \$400 per week.⁹⁴

⁹¹ Christopher J. O'Leary and Stephen A. Wandner, *An Illustrated Case for Unemployment Insurance Reform*, Working Paper 19-317 (W.E. Upjohn Institute for Employment Research, 2020), <https://doi.org/10.17848/wp19-317>; Daphné Skandalis, Ioana Elena Marinescu, and Maxim Massenkoff, *Racial inequality in the U.S. unemployment insurance system*, Working Paper No. w30252 (National Bureau of Economic Research, 2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4165324.

⁹² O'Leary and Wandner 2020.

⁹³ O'Leary and Wandner 2020.

⁹⁴ In ascending order those states and territories are Mississippi, Puerto Rico, Alabama, Florida, Louisiana, Tennessee, Arizona, Missouri, South Carolina, North Carolina, Michigan, Georgia, Wisconsin, Virginia, and Indiana. Alaska provides a dependents' allowance, which means their maximum benefit ranges from \$370 to \$442.

The short duration of unemployment benefits in select states also poses a risk to UI's effectiveness. Since the Great Recession—a period of record state UI insolvency—a significant number of states have reduced the duration of UI benefits below the long-accepted 26 weeks, despite employers' increasing permanent layoffs; more states have recently proposed similar durational cuts.⁹⁵

Congress has yet to heed recommendations from the bipartisan Advisory Council on Unemployment Compensation in 1994 to reform the permanent Federal-State Extended Benefits program,⁹⁶ whose automatic “triggers” often fail to activate or maintain additional weeks of benefits during recessionary times. In its absence, Congress has relied on temporary, emergency programs that are challenging to administer, and which end arbitrarily.

The American Rescue Plan Act (ARPA)'s equity-enhancing investments, detailed below, are spurring a range of activities that are lowering access barriers for eligible unemployed. But essential segments of the U.S. workforce remain excluded from UI's income support, and in several states, the amount of UI benefits falls short of sustaining an individual during a comprehensive job search. Sufficient UI benefits provide workers with the necessary income to look for a job that matches their skills, experience, and prior wages, rather than taking the first available job even if it is a poor match. Claimants also gain access to cost-effective reemployment services to help with their job search or connect them to retraining if necessary and available. One of the primary goals of the UI program is to ensure that unemployed workers not only find a job but also find a suitable match. To ensure broad access to robust benefits and services, ARPA UI modernization investments must be bolstered by legislative reform.

⁹⁵ Nick Gwyn, *State Cuts Continue to Unravel Basic Support for Unemployed Workers* (Center on Budget and Policy Priorities, June 27, 2022), www.cbpp.org/sites/default/files/6-27-22sfp.pdf.

⁹⁶ Advisory Council on Unemployment Compensation, *Collected Findings and Recommendations, 1994-1996* (1996), <https://research.upjohn.org/externalpapers/1/>.

Strategies

Completed	
<p>5.1. Issue guidance that provides states greater clarity on key equity-related concepts and requirements</p>	<p>On November 8, 2023, the Department published Unemployment Insurance Program Letter (UIPL) No. 01-24, a comprehensive, first-of-its-kind guidance on “Equitable Access in the UI Program.”⁹⁷ This guidance describes the Department’s definition of equitable access in benefits. The guidance also outlines steps states should take to analyze key UI metrics by demographics to ensure that all individuals have access to UI benefits whether applying online, by phone, or in-person. In November 2023, the Department hosted a webinar for state agencies and claimant advocates in which presenters discussed how the guidance informs UI stakeholders of ways that equitable access can be evaluated and enhanced, including through promising practices, technical assistance and tools from various Department initiatives, and state-based partnerships.</p>
<p>5.2. Relieve the burden of repayment of Coronavirus Aid, Relief, and Economic Security (CARES) Act overpayments for claimants not at fault</p>	<p>To improve administrative efficiency where permissible under the CARES Act, as amended, UIPL No. 20-21, Change 1, provided seven approved scenarios for states that permit the use of “blanket waivers” of the recovery of overpayments under the temporary pandemic-related UI programs, where individuals are without fault in the creation of the overpayments and recovery would be against equity and good conscience. UIPL No. 20-21, Change 1, also included a process by which states may submit additional scenarios for consideration, and the Employment and Training Administration (ETA) is reviewing these state-specific requests within the parameters of the statute.</p>
<p>5.3. Compile and disseminate Department’s learnings from Tiger Team engagement on equitable access</p>	<p>A shortage of state staff with the expertise to surface and address equitable access barriers can hinder the efficacy of efforts to broaden UI’s reach. ETA is developing tools and guidance to help states address this resource gap and embed equitable access principles in their UI operations. ETA developed the “UI Equitable Access Toolkit.”⁹⁸</p>

⁹⁷ Department of Labor, Employment and Training Administration, *Equitable Access in the Unemployment Insurance (UI) Program*, UIPL No. 01-24 (November 8, 2023), www.dol.gov/agencies/eta/advisories/uipl-01-24.

⁹⁸ Department of Labor, Employment and Training Administration, *Unemployment Insurance Equitable Access Toolkit* (April 2023), www.workforcegps.org/resources/2023/04/UI_Content/Public_Equitable_Access_Toolkit.

	<p>It is based on research and insights gathered through the Department’s Tiger Team initiative. Research revealed that many states have similar challenges when it comes to promoting equitable access to their UI programs. The UI Equitable Access Toolkit contains common equity recommendations to states, promising practices, and insights, compiled in one interactive document.</p>
<p>Underway</p>	
<p>5.4. Invest in equity-enhancing programs and activities through grants</p>	<p>The Department has made \$219.3 million in ARPA-funded Equity Grants to 45 states and the District of Columbia. In designing their Equity Grant projects, states had broad flexibility to develop state-specific strategies to promote equitable access within their jurisdiction, as long as they developed project metrics that are capable of tracking change or improvements, in addition to meeting all other grant requirements. Equity Grant projects target a variety of activities, including but not limited to translation,⁹⁹ plain language communication, staff-led customer assistance and outreach, enhanced data reporting and analysis, and equity-advancing process improvements. Many of these activities have the added benefit of supporting payment accuracy and reducing improper payments by facilitating information flow between claimants and states. To date, many of the states’ project activities are intended to help—among others—individuals with no or limited English proficiency, individuals with lower educational attainment, Black and Hispanic/Latino workers, individuals with disabilities, and workers residing in rural areas. Reflecting important intersections of marginalized identities, projects aimed at one population are likely to benefit other groups as well. States will take lessons learned from these Equity Grant projects into a new and sustained focus on ways to remove unnecessary barriers to aid.</p>

⁹⁹ Reflecting the Department’s broader commitment to supporting underserved communities and improving access to Department-conducted programs and activities for limited English proficient (LEP) workers and individuals, the Department’s Language Access Plan, published in July 2011 and revised for FY 2023, outlines efforts to conduct linguistically appropriate outreach and engagement and improve language access services to ensure that all communities can participate in the Department’s programs. For more information on the plan see *Department of Labor Language Access Plan – FY 2023*, www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/cola/FY2023-language-access-plan.

5.5. Orient state staff to equity-related guidance and techniques through trainings

As part of efforts to develop tools and guidance to help states embed equitable access principles in their UI operations, and building on the work and insights captured in the Equitable Access Toolkit (see Strategy 5.3), ETA is developing training lessons for states to address challenges and possible solutions to help ensure equitable access to UI programs. ETA released its first online training module in FY 2023, called “Fundamentals of Equitable Access in UI.”¹⁰⁰ This online training, developed in collaboration with the National Association of State Workforce Agencies (NASWA), is intended to promote awareness of equitable access issues amongst state workforce agency leadership and non-leadership staff, identify barriers and possible solutions, and foster dialogue to further identify and address equitable access barriers within the state’s UI programs. ETA expects to release at least two additional training modules in FY 2024. As of Q2 FY 2024, work is ongoing to develop training lessons to cover equity in UI program integrity and equity in UI policies and processes. These modules are being released through the NASWA learning management website.¹⁰¹

5.6. Enhance and expand states’ UI data reporting, to better understand racial/ethnic and other inequities in regular UI benefit receipt (GAO-22-104438)

The Department is developing new standard reporting measures, with the goal of having national data on key UI metrics (such as continuing claims, denials, and appeals) by demographic and socioeconomic categories as well as modernizing reporting on race and ethnicity alongside proposed Office of Management and Budget (OMB) guidelines. These demographic breakdowns will be included as proposed additions to required ETA reports.

¹⁰⁰ Department of Labor, Employment and Training Administration, *Announcing “Fundamentals of Equitable Access in Unemployment Insurance (UI)” Online Training*, Training and Employment Notice No. 06-23 (September 1, 2023), www.dol.gov/sites/dolgov/files/ETA/advisories/TEN/2023/TEN%2006-23/TEN%2006-23%20%28Accessible%20PDF%29.pdf.

¹⁰¹ National Association of State Workforce Agencies, NASWA Learning, www.naswa.org/learning.

	<p>In FY 2024, ETA will leverage current workstreams (e.g., Tiger Teams, Equity Grants, Technical Assistance) to establish appropriate baseline, state-level demographic data metrics, collections, and reports to identify equity-based metrics; and will submit notice to Federal Register seeking comments on revisions to existing Information Collection Request to enhance and/or expand the demographic data elements in numerous reports.</p> <p>These data will allow states and the Department to see what demographic differences exist in UI measures and explore whether adjustments are needed to policy and procedures to ensure equitable access. Further, these data will enable the Department to respond to the Government Accountability Office (GAO)'s recommendation that it report on racial and ethnic inequities in the regular UI benefit program.¹⁰²</p>
<p>5.7. Facilitate partnership with community-based organizations through the UI Navigator Pilot Program</p>	<p>The purpose of the ARPA-funded UI Navigator Pilot Program is for states to partner with community-based organizations (CBOs)—which may include claimant advocacy groups—to help workers learn about, apply for, and, if eligible, receive UI benefits and related services. In addition, this opportunity will support state agencies in delivering timely benefits to workers—especially individuals in groups that are historically underserved, marginalized, and adversely affected by persistent poverty and inequality. On June 10, 2022, the Department announced over \$18 million in grant awards to seven states for this initiative: Maine, New Mexico, Oklahoma, Oregon, Pennsylvania, Washington, and Wisconsin.¹⁰³</p> <p>ETA has partnered with the Chief Evaluation Office (CEO) to conduct an evaluation that can measure the impact of this initiative and inform future efforts to conduct outreach in partnership with CBOs.</p>

¹⁰² Government Accountability Office, *Unemployment Assistance for Contingent Workers in the Pandemic*, GAO-22-104438 (June 7, 2022), www.gao.gov/products/gao-22-104438.

¹⁰³ Department of Labor, Employment and Training Administration, “US Department of Labor awards more than \$18M in grants to address disparities in delivery of unemployment benefits, services in 7 states” (News release, June 10, 2022) www.dol.gov/newsroom/releases/eta/eta20220610-0.

	<p>The Department views partnerships with CBOs and other constituency organizations as an important strategy to reach diverse populations potentially eligible for UI benefits, and has included claimant advocacy groups in the development of Tiger Team recommendations, held national listening sessions, and has recommended that states continue that engagement with claimant advocacy groups on a regular basis.</p>
<p>5.8. Develop new, deeper equity-related insights through state data partnerships (GAO-22-104438)</p>	<p>CEO is initiating a series of pilot data partnerships with several state UI agencies to produce disaggregated federal indicators of access to UI benefits across key demographic groups. Both the Department and states have historically lacked sufficient data to understand which workers and communities have access challenges and the barriers they may face in accessing UI promptly. In the absence of rigorous disaggregated data collection and analysis, both the Department and states lack information essential for identifying effective solutions. These partnerships will produce indicators that may include application, recipiency, denial, and timeliness across demographic and socioeconomic groups, that state UI agencies can use to inform changes to program administration to improve equity for underserved populations, including through new outreach, education, and training.</p>
<p>Planned</p>	
<p>5.9. Explore methods of verifying the income of non-standard workers (GAO-22-104251)</p>	<p>One of the central challenges during the pandemic was income verification for non-traditional workers. Congress created the Pandemic Unemployment Assistance (PUA) program to serve populations that fall outside of the traditional UI system, like freelancers and self-employed workers. But as these individuals do not earn wages in UI covered employment, their employment and wages are not reported to states. This deprived states of one of the key integrity controls in the state UI system, which is to check new claims against the state's official records of employment. When Congress belatedly added income verification requirements in December 2020, states struggled to set up ways to process documentation from claimants who are non-traditional workers.</p>

	<p>Currently, the Disaster Unemployment Assistance (DUA) program provides benefits to individuals who have lost self-employment because of presidentially-declared natural disasters, and requires individuals to provide documentation of employment or self-employment. For DUA, eligibility for self-employed workers is based on the federal tax year, which makes federal tax returns the best source of income. Nearly all states process these documents manually and lack streamlined or direct access to federal tax records to verify or electronically procure these records.</p> <p>The Department has conducted research on technical avenues to streamline access to income information for the purposes of eligibility for UI benefits during future emergencies. We intend to publish this research and work with Congress and other federal agencies to increase the tools available to state UI agencies.</p>
<p>5.10. Explore policy issues related to coverage of contingent and self-employed workers, especially during economic emergencies (GAO 22-104438, GAO-22-104251)</p>	<p>ETA is working to address key policy issues related to covering contingent and self-employed workers with UI benefits, helping to address challenges raised during the pandemic about how to effectively support workers outside the traditional UI system, and the GAO recommendation in 2022 to “[assess] lessons learned from the pandemic to inform its future disaster response efforts and support Congress on ways to address future emergencies.”¹⁰⁴</p> <p>Pursuant to this and similar Department of Labor, Office of Inspector General recommendations,¹⁰⁵ the Department is gathering material regarding the operations of the federal pandemic unemployment programs (PUA, Pandemic Emergency Unemployment Compensation, Mixed Earners Unemployment Compensation, Federal Pandemic Unemployment Compensation) in preparation for future temporary programs, and plans to create a guide featuring resource materials, including guidance, tools, charts, standard operating procedures, data-analysis, Q&A, and lessons learned.</p>

¹⁰⁴ Government Accountability Office, *Unemployment Assistance for Contingent Workers in the COVID-19 Pandemic*, GAO-22-104438 (June 7, 2022), www.gao.gov/products/gao-22-104438.

¹⁰⁵ Department of Labor, Office of Inspector General, *ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or From Payment Delays*, Report No. 19-22-006-03-315 (September 30, 2022), www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf and Department of Labor, Office of Inspector General, *COVID-19: Pandemic Unemployment Assistance For Non-Traditional Claimants Weakened By Billions In Overpayments, Including Fraud*, Report No. 19-23-014-03-315 (September 27, 2023), www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf.

	<p>To further inform future responses to mass unemployment events that impact contingent workers, ETA has also been working with CEO and the International Labor Affairs Bureau¹⁰⁶ on research to address key policy questions related to coverage of these workers including how to determine if a contingent/self-employed worker has experienced involuntary unemployment, and how to finance, structure, and protect program integrity in any program for those who are unemployed.</p>
<p>5.11. Research new performance standards for equitable access</p>	<p>The UI program has core performance standards related to timeliness of benefits and payment accuracy, but lacks a core performance standard that captures whether states have methods of administration that support equitable access to benefits.¹⁰⁷ For example, the Denied Claims Accuracy data is produced regularly as part of the Benefit Accuracy Measurement program, the Department’s main source of information on improper payments; but it does not currently serve as a core performance measure. Given the long-standing challenges related to equitable access to benefits, having a core performance measure focused on this program dimension would provide an important tool to support states in removing barriers to benefits. The Department plans to study additional standardized benefit adequacy and equitable access performance indicators and propose measures of equitable access for UI, pending analysis and consideration.</p>
<p>5.12. Train states to effectively address worker misclassification</p>	<p>When employers misclassify employees as independent contractors, states lose out on revenue from payroll tax contributions, and individuals who should be eligible for UI’s income support do not receive it (a contributing factor to the underpayment of benefits). To address this, the Department will train states to address worker misclassification within the UI program. In addition, several states are using ARPA grant funding on projects to address misclassification, and the Department will share lessons learned from these projects.</p>

¹⁰⁶ The Bureau of International Labor Affairs funded a study by Organisation for Economic Cooperation and Development (OECD) that suggested possible pathways for coverage for self-employed workers based on international experiences. OECD, *Benefit Reforms for Inclusive Societies in the United States: Income Security During Joblessness* (OECD Publishing, May 9, 2023) <https://doi.org/10.1787/32d8f005-en>.

¹⁰⁷ More information on the UI system’s core performance measures is here: Department of Labor, Employment and Training Administration, *UI Performs Core Measures*, https://oui.doleta.gov/unemploy/pdf/Core_Measures.pdf.

5.13. Make clear that states can share information with agencies that enforce wage-and-hour laws to address misclassification

The Department’s request for information (RFI) about potential updates to the unemployment compensation (UC) confidentiality regulations in 20 CFR 603 asks questions about ways in which rules could be clarified around the authority of states to share confidential UC information with federal, state, and local labor agencies — pursuant to assurances of confidentiality — in order to better target misclassification enforcement. Based on responses to the RFI, the Department may consider rulemaking to improve enforcement coordination efforts.

Proposed legislative reform

- **Ensure all entitled and eligible individuals experiencing employment loss receive UI’s income support** – Comprehensive UI reform should include a federal floor on states’ eligibility rules to prevent them from unfairly penalizing workers with more limited work histories or low wages. This includes workers in lower-paid service industries subject to their employers’ volatile scheduling practices. All states should allow workers seeking part-time employment or who lost work for family-related reasons to be able to receive benefits, and provide equitable coverage to domestic, agricultural, and seasonal workers.
- **Extend unemployment protections to non-standard workers** – The UI system should permanently address gaps that the CARES Act programs temporarily filled. The high utilization of the CARES Act programs, including PUA, indicates the tremendous need for programs that include workers who are not currently eligible for regular UI. Expanded eligibility will be more durable and equitable — and less prone to error — if accomplished through permanent UI reform instead of temporary programs.

- **Provide adequate benefits in every state** – A reformed UI system must provide adequate benefits in every state. Since the Great Recession, a significant number of states have reduced the duration of UI benefits¹⁰⁸ and more have cut benefit levels far below a sustainable living income to avoid increasing taxes on employers. UI reform must improve benefits across states by ensuring that benefit levels at the maximum, minimum and in between, as well as benefit duration, are adequate to allow unemployed workers, particularly those who have historically been excluded from or struggled to access UI benefits, to receive the income support and job placement services they need to find their next job. Prior advisory bodies have recommended that these federal floors should be set relative to the overall wage levels or cost of living in each state.¹⁰⁹
- **Ensure the federal-state Extended Benefits program responds timely and adequately to downturns** – A modern UI system must be easily scalable and respond automatically to economic downturns. This would allow UI benefits to ramp up quickly and automatically when the economy weakens and would tie the expiration of these benefits to improvements in the economy, rather than arbitrary deadlines. Restructuring the existing Extended Benefits program so it responds more quickly and effectively during recessions and to increases in long-term unemployment would provide certainty for workers and avoid the scenarios in which political dysfunction leads to delays in benefits when people need them most. This would also make it easier for states to prepare for extensions in advance, preventing the needless additional stress many laid-off workers experienced during the pandemic because of undue delays. Scalability also includes technical infrastructure that can quickly incorporate changes to program rules and benefit calculation and combat new fraud threats.

¹⁰⁸ Katelin P. Isaacs, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, Report for Congress R41859 (Congressional Research Service, October 23, 2019) <https://sgp.fas.org/crs/misc/R41859.pdf>; Center on Budget and Policy Priorities (CBPP), *Policy Basics: How Many Weeks of Unemployment Compensation Are Available?* (CBPP), www.cbpp.org/research/economy/how-many-weeks-of-unemployment-compensation-are-available.

¹⁰⁹ Advisory Council on Unemployment Compensation, *Collected Findings and Recommendations, 1994-1996* (1996), <https://research.upjohn.org/externalpapers/1/>.

- **Invest in reducing worker misclassification** – Workers incorrectly classified as independent contractors, who should be considered employees, need adequate coverage. For example, the 2025 Budget proposes investments in the Wage and Hour Division and the Office of the Solicitor so that they can maintain the staff needed to help ensure that businesses properly classify their employees, which will help bolster the solvency of the system and ensure that workers receive the unemployment benefits they are entitled to if they are laid off. While definitions of employment vary by program, this is one example of an investment in promoting proper classification of workers.