



# Improving Equitable Access to UNEMPLOYMENT INSURANCE in North Carolina

**NCJC**  **WRP**  
WORKERS' RIGHTS  
PROJECT

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# INTRODUCTION

UNEMPLOYMENT INSURANCE (UI) is one of the most significant programs ever created to support working people and stabilize the economy during periods of economic recession. UI was designed as a social insurance program, providing cash payments to jobless workers who have lost a job through no fault of their own. These programs are overseen by the Federal Government but administered by individual states, who have a great deal of flexibility both in the benefits available and the administration of the program. UI was created in the U.S. in response to the Great Depression and has been a critical part of our nation's economic recovery during times of uncertainty. Its importance was most recently highlighted in the early months of the COVID-19 pandemic, when the number of unemployed workers in North Carolina jumped from fewer than 200,000 to more than 600,000 between February and April.<sup>1</sup> Emergency federal UI assistance programs threw workers a lifeline during a period of great economic upheaval, keeping millions nationwide out of poverty.<sup>2</sup>

North Carolina has long had one of the worst performing UI systems in the country.<sup>3</sup> In 2013, North Carolina lawmakers permanently cut the maximum benefit amount, duration, and eligibility for benefits for all unemployed workers, the most severe cuts ever enacted by any state during the program's 80-year history.<sup>4</sup> North Carolina ranks in the bottom five among all states for the percent of its jobless workers who receive benefits and its average duration of benefits, as well as in the bottom ten for its average weekly benefit amount. This is despite having one of the largest trust fund balances of all states, and ranking 12th among all 50 states in trust fund balance per person in the civilian labor force.

Equitable access to UI is essential to fighting economic inequality. Low wage workers especially rely on this income when they are out of work to meet basic



## INTRODUCTION

### Unemployment Insurance metrics and rank among 50 states (1st Quarter, 2024)<sup>5</sup>

METRIC	NC	US AVERAGE	NC STATE RANK
Percent of jobless workers receiving benefits	11.0%	30.5%	48th
Average weekly benefit amount	\$305	\$458	42nd
Average duration of benefits	9.2 weeks	15.1 weeks	44th
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Trust Fund Balance	\$4.46 million	\$1.17 million	2nd
Trust Fund Balance Per 1,000 civilian labor force	\$849	\$369	10th

needs. Making sure workers can maintain housing, buy food, and put gas in the car is important for a litany of obvious reasons. In the context of UI specifically, these things enable workers who have lost their job to focus on finding a new job and preventing people from falling into long-term unemployment<sup>6</sup>, which should be primary goals of any UI system.

North Carolina's inadequate benefits and the barriers to accessing them are particularly felt by underserved communities and those who need UI payments the most. There are several ways to make the UI system more equitable. In recent years, the U.S. Department of Labor (US DOL) made major grants to support modernizing UI systems and render them more accessible and equitable. North Carolina Division of Employment Security (DES) has committed to five projects in their proposal to US DOL: 1) creating an "equity analytics dashboard"; 2) using behavioral research to improve the claimant experience; 3) building a multi-language support system to offer Spanish language services; 4) building a claimant messaging system that will send mobile alerts to clients and provide an automated chatbot for real-time assistance; and 5) increasing outreach by hiring dedicated ombudsmen and other staff.<sup>7</sup> We believe DES could go further in their efforts by supporting additional languages beyond Spanish; making the results of their Equity Analytics dashboard available to the public; and by issuing additional blanket waivers for overpayments that occurred while the pandemic related federal UI assistance programs were ongoing.

# UI MODERNIZATION

## US DOL grants

Improving state UI systems has been a priority of US DOL in recent years. During the height of the COVID-19 pandemic, it became apparent that the inadequacies of state UI systems—the exclusion or penalization of part-time workers, independent contractors, certain low wage workers, and those leaving their jobs for family, health, and safety reasons—had created a major barrier to UI being an effective macroeconomic stabilizer and income support for the millions of people who lost or were forced out of their jobs.<sup>8</sup> Congress created the Pandemic Unemployment Assistance (PUA) and Mixed Earners Unemployment Compensation (MEUC) programs to cover people who were ineligible for traditional state unemployment benefits, the Pandemic Emergency Unemployment Compensation program (PEUC) to provide additional weeks of benefits beyond what states offered, and the Federal Pandemic Unemployment Compensation program (FPUC) to provide \$300 in additional weekly UI benefits.<sup>9</sup> The availability of these benefits was temporary but showed that our

**TABLE 1: Summary of US DOL grants for UI System upgrades awarded to NC DES**

	NORTH CAROLINA AWARD	TOTAL US DOL FUNDING
<b>Equitable Access Grants</b>	<b>\$6,840,000<sup>13</sup></b>	<b>\$260 million</b>
<b>UI Resiliency Grants</b>		
<i>Tiger Team</i>	<i>\$4,473,500<sup>14</sup></i>	
<i>Integrity Grant</i>	<i>\$2,609,000<sup>15</sup></i>	
<i>IT Modernization</i>	<i>Did not receive<sup>16</sup></i>	
<b>Total Resiliency</b>	<b>\$7,082,500</b>	<b>\$377 million</b>
<b>Fraud Prevention Grants</b>		
<i>From PUA funds</i>	<i>\$2,133,900</i>	
<i>From PEUC funds</i>	<i>\$405,900</i>	
<i>From Additional Funding</i>	<i>\$3,684,000</i>	
<b>Total Fraud Prevention</b>	<b>\$6,223,800<sup>17</sup></b>	<b>\$140 million</b>

UI system could work for those who have been traditionally excluded and underserved if more investment were made in UI systems and more benefits were available to more people. In 2021, US DOL announced \$260 million in ARPA funding would be available for state UI agencies “for activities that promote equitable access to U[nemployment] C[ompensation] programs, which include eliminating administrative barriers to benefit application, reducing state workload backlogs, improving the timeliness of UC payments to eligible individuals, and ensuring equity in fraud prevention, detection, and recovery activities.”<sup>10</sup> Another \$140 million in ARPA funding and \$100 million in remaining CARES funding was earmarked for fraud prevention measures.<sup>11</sup> In 2023, US DOL announced three new funding opportunities for states to “strengthen the integrity and resilience of their unemployment insurance programs” using \$377 million in ARPA funding.<sup>12</sup>

Across these pools of money, the North Carolina DES received more than \$20 million, including \$6.84 million in funding to improve equitable access to the UI system. These federal funds present an opportunity for NC DES to make major improvements to one of the worst performing UI systems in the country and better serve the hundreds of thousands of workers that rely on this income every year. Given that DES received money in grants specifically for Fraud Prevention and UI Resiliency, DES should focus exclusively on projects that will definitively improve equitable access to the UI system with the nearly \$7 million in funds from the equity grant. In this brief, we focus specifically on measures DES can take to improve equitable access using these funds.



## Defining Equitable Access

In the Unemployment Insurance Program Letter (UIPL) announcing the equity grant funding, the US DOL underscored the importance of “addressing disparities in accessing government programs facing individuals and communities including, but not limited to, low wage workers, Black and Hispanic/Latinx workers, individuals with disabilities, and individuals with limited English proficiency, women, and individuals living in rural areas.”<sup>18</sup> This language comes from the President’s Executive Order (EO) 13985, which pledges to use federal programs to advance racial equity and provide support for underserved communities. The UIPL continued on to define advancing equity for all people as “addressing disparities in accessing government programs facing individuals and communities including, but not limited to, low wage workers, Black and Hispanic/Latinx workers, individuals with disabilities, and individuals with limited English proficiency, women, and individuals living in rural areas.”

The Department released another UIPL in November of 2023 to provide clarity about what they mean by “equitable access” and to stress the importance of equitable access in state UI programs.<sup>19</sup> They define equitable access 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.” They provide a non-exhaustive list of backgrounds and identities that should be protected:

- 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
- Geographic location



The mandate from US DOL for state programs is to proactively 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.” They go on to affirm that states are required to assist individuals facing challenges with the UI system whether or not they are in a protected class (for example, those with low literacy levels and those living in rural areas). They recommend that states “continuously consider the potential adverse impacts of agency access points, processes, and other methods of administration across diverse populations” and to “endeavor to understand which other populations in their state may be facing disproportionate barriers when trying to access benefits.”

In summary, we describe the key points of the US DOL’s guidance on equitable access as follows:

- **Equitable access means providing comparable levels of access for all persons entitled to UI benefits;**
- **It is the responsibility of the agency to revise, update, and build systems which reduce known barriers to access;**
- **Equitable access requires not only affirmatively eliminating barriers for protected classes, but also removing barriers for groups that are not in a protected class;**
- **DES should analyze whether changes in services are removing barriers for target groups and proactively look for new barriers and affected groups to continue eliminating these barriers.**

## Opportunities to improve Equitable Access

### Plain Language, LEP, and Language Access

UI benefits are hard to access for those who do not speak English, speak English as a second language, or otherwise have limited English proficiency. Equitable access means that people with limited English proficiency or who speak a different language should be able to access unemployment insurance benefits as easily as those with a high level of English language proficiency.

In North Carolina, 7.5% of the population speaks Spanish as their primary language at home.<sup>20</sup> Historically, DES has underserved this claimant population. In 2016, US DOL conducted a compliance review and found that DES violated Title VI of the Civil Rights Act of 1964. Steps DES was required to take included the development and implementation of a language access plan (which they created in 2017), and corrections to deficiencies in both written translation and interpretation services. Despite being aware of this access barrier for Spanish-speaking North Carolinians, DES used federal funding in 2018 to

build a new claims processing system which did not incorporate the previously existing Language Access Plan. The design of the new system, called SCUBI, created severe barriers when it came to online access to information and forms in languages other than English. Meanwhile, phone options for non-English speakers and written notices in languages other than English were unavailable or difficult to access. DES is still working through several of these issues as of the writing of this report.

The National Employment Law Project (NELP) published proposals for performance standards for equitable access to unemployment insurance in a June 2023 publication.<sup>21</sup> Their recommendations for Plain Language and Language access include:

- **Conforming written communications to federal plain-language guidelines,<sup>22</sup> making those communications readable by people with low literacy. This standard is important because many potential claimants struggle to access these benefits due to unclear and confusing communications, according to many worker advocates and legal assistance providers.**
- **Including a “Babel notice”—a short notice in multiple languages that informs the claimant how to access the agency’s language services—in all communications of vital information.<sup>23</sup>**
- **Provide translation services for all “vital information” in all languages spoken by 0.5 percent or more of a state’s population, or more than 10,000 people in the state, whichever is fewer.**
- **Identify a claimant’s need for language access and record LEP and preferred language of each claimant at the earliest point of contact.**
- **Inform LEP individuals when language services are available and conduct outreach to LEP communities to improve service delivery in specific languages.**
- **Consider delays caused by a language barrier as good cause for late submissions or filings.**



One example of a state using its US DOL equity grant for language communications can be seen in Montana. The project sought to improve plain language communications to make decision processes easier for underserved populations, particularly those with lower levels of educational attainment. To do this, they worked with US DOL's Plain Language Team to

reduce the number of template letters they send to claimants from 725 to 175. This system was newly live as of November 2023, and Montana’s Department of Labor and Industry is measuring efficacy by monitoring call volumes related to comprehension; timeliness of payments; and user surveys.

NC DES, as part of their equity grant, is actively working to provide online services and correspondence in Spanish, with the potential to add more languages in the future. They are continuing to work on translation and multi-language availability for multiple products, including the Identity Management System, Adjudication Fact-finding fact sheets, and Work Search Repository. DES has also contracted a study to evaluate their plain language accessibility and will be working to use the recommendations from this study to improve accessibility to materials, starting with their FAQs.

To ensure equitable access, NC DES should continue to use the new infrastructure to offer translations in languages other than Spanish. To offer services in all languages spoken by more than 10,000 North Carolinians, as NELP recommends in their performance standards, they would need to offer translation in French, Arabic, Chinese, Vietnamese, German, Hindi, Telugu, Russian, Tagalog, Gujarati, Korean, Portuguese, and Tamil.<sup>24</sup> Furthermore, DES should evaluate their English language materials against Federal Plain Language guidelines, iteratively test materials with users before releasing new forms,<sup>25</sup> and monitor user experience to find out how easily claimants are able to access these language services.

### Monitoring and Evaluation

Many states proposed projects to enhance data analysis and reporting capacity in their UI Equity Grant proposals. State UI agencies can use data on outcomes and experience across different demographic groups to better identify equity barriers and develop strategies to remove them. US DOL has highlighted the work of several states engaged in these projects.<sup>26</sup> Kansas DOL is focusing on additional demographic data collection capabilities. New Mexico Department of Workforce Solutions is conducting “equity-focused customer

journey analyses” to identify different points of difficulty across the entire process of applying for and receiving benefits, with a specific focus on groups which are disproportionately affected by unemployment. Mississippi and other states are developing business analytics tools that will focus on changing outcomes across specific demographic groups.

NC DES promised an Equity Analytics dashboard in their proposal to US DOL. The dashboard would help monitor the



claimant experience at multiple stages of the process—including filing claims, eligibility determination, payment timeliness, and appeals processes. DES will collect demographic data including race, gender, age, ethnicity, citizenship status, education, geography, income, disability, and language needs analyzing differences for these groups in outcomes such as completed and incomplete claims; monetary and non-monetary eligibility; and appeals. DES is also planning to use the dashboard to inform another proposed project, a “Behavioral Insights” project that will use behavioral research and analysis to make system improvements that advance equitable access.

While an Equity Analytics dashboard is an essential step in ensuring that our UI system is effectively serving North Carolinians, DES has yet to make this dashboard transparent, refusing to make dashboard data available to the public. DES’ commitment to equity and an effective UI system must require a commitment to transparency and public accountability. The Michigan Unemployment Insurance Agency’s Economic Dashboard is an example of how state UI agencies can make data available to the public. The public dashboard includes info on key metrics by month for the entire system, as well as claims counts and percentages by gender, age, race, and ethnicity; occupation; industry; and county.<sup>27</sup> DES can take another step towards equitable access by making certain metrics from the dashboard available to advocacy groups and the public. This can provide for greater public accountability and can tap into advocates who work directly with affected people to track progress and identify where efforts may be falling short.

## Outreach

Many states, including North Carolina, included outreach and communications projects in their Equity Grant applications. Alabama Department of Labor is one example highlighted by US DOL. Alabama, whose \$4.6 million dollar equity grant was announced by US DOL in March of 2022, launched their program by hiring and placing 27 trained ombudspeople in career centers across the state. These ombudspeople are being hired to provide hands-on support to people seeking UI assistance, and the department seeks to promote equitable access with this program by assisting claimants who might struggle with more traditional means of UI filing. The ability to place many of these individuals in rural locations increases their ability to assist underserved populations, promoting more equitable access to UI benefits for eligible workers.



DES is hoping to improve public awareness and outreach through their term-limited Ombudsperson positions. DES initially planned for three time-limited Ombuds positions as well as two time-limited positions for the Communications and Outreach campaign. They eventually chose to fill two positions in 2023—one Ombudsperson each in Wake and Halifax County. They are also working on a claimant messaging problem, which involves developing mobile alerts to encourage claimants to take necessary actions for more timely and accurate action on their claims, as well as an Initial Claim Chatbot that claimants can use to ask questions about their claim.

NC is only hiring a maximum of four term-limited staff under the Ombudsman and outreach portion of the grant. NC DES should use this period to evaluate the unmet demand for these services and consider hiring additional staff as well as making the term-limited staff positions permanent to ensure continued service delivery.

### ID Verification

ID verification is encouraged by US DOL as a key measure in fraud prevention and system integrity by reducing bot attacks, improving processing of legitimate claims, and helping clear backlogs of unprocessed suspicious cases. US DOL cites North Carolina as an example

of a state that was able to reduce bot attacks through ID verification.<sup>28</sup>



US DOL encourages states to verify ID by having applicants and claimants present ID documents “at physical location, through virtual platform, or through other state-developed processes or procedures.”<sup>29</sup> For those with limited access to a computer or broadband, or wariness of uploading identity documents to an internet portal, maintaining an in-person option is important. Furthermore, there are a number of concerns with online ID verification software, leading to a mistrust of the software that will

last even if the issues are fixed. In 2019, rollouts of facial recognition technology in the U.K. were marred by several cases of dark-skinned people being unable to have their identity verified, raising major equity concerns related to the limitations of these types of software.<sup>30</sup> In early 2021, California claimants struggled with ID verification vendor ID.me, waiting hours to reach employees who could help them.<sup>31</sup> And in 2022, the I.R.S. stopped requiring facial recognition through [ID.me](#) after concerns about sensitive data collection.<sup>32</sup>

The US DOL is supporting an initiative to implement ID verification procedures in partnership with Login.gov and the US DOL, training local post office employees to verify identity. US

DOL highlights success stories in Arkansas and Hawaii, where the state partnered with US DOL to implement these ID verification procedures, in their 2023 report on ARPA funding for UI system improvements.<sup>33</sup> In February 2024, North Carolina took advantage of this partnership and made ID verification available at post offices in North Carolina. Since then, more than 2,000 people have used this option, with only a handful failing ID verification. DES should continue to monitor the performance of both the web and in-person verification options, and track whether specific groups rely more heavily on the USPS process and how to continue to serve those groups best. DES should also review their fraud prevention framework to determine whether they are unnecessarily flagging cases for ID verification. Exploring other fraud flagging interventions that may be less burdensome for claimants, less costly to the state, and more likely to actually identify attempted fraud could improve both the accessibility of the system and better utilize DES resources.

## Overpayments and Blanket Waivers

Overpayment issues were more prevalent during the early months of the pandemic when new federal programs became available. Multiple new programs were created—PUA, FPUC, MEUC, PEUC—that served workers in different situations and classifications and had different start and end dates. The eligibility and benefit differences in each program created confusion among both claimants and administrators. Due to the confusion from new unemployment assistance programs, many states incorrectly implemented payments from these programs, and individuals often received incorrect payments when moving between programs. Furthermore, some “overpayments” were caused by states not realizing they needed to collect certain info from a claimant for eligibility in a federal program, then being unable to contact those claimants months later to get these documents, triggering the overpayment process. Given the economic conditions at the time of the pandemic unemployment programs, many claimants were low-income workers or workers that were not covered by regular unemployment insurance programs. Workers at lower income levels spend a higher level of their income on basic necessities<sup>34</sup> and are less likely to have retained their overpayment income and be readily able to pay back the overpayment amount. Furthermore, collecting overpayments from workers outside the traditional UI system



presents administrative challenges. Using DES's resources to collect these overpayments may be inefficient, especially while trying to complete the objectives of the projects under the Equity Grant.

UIPL 20-21 provides guidance on when a state can waive overpayment recovery, including "blanket waivers," for overpayments from programs authorized under the CARES ACT.<sup>35</sup> Specifically, it states that:

***“a state may only waive repayment of an overpayment if the state determines that: (1) the payment of such compensation was without fault on the part of any such individual; and (2) such repayment would be contrary to equity and good conscience. State law determines when an individual is considered to not be at fault for the overpayment.”***

While state law may specify under what conditions "equity and good conscience" is utilized as a reason to waive overpayments, the federal guidance is as follows:

- ▶ It would cause financial hardship to the person for whom it is sought; or
- ▶ The recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse; or
- ▶ Recovery would be unconscionable under the circumstances.

Blanket waivers may be processed under the following seven circumstances:

- 1** **“When an individual is eligible for payment under an unemployment benefit program for a given week, but through no fault of the individual, they were paid incorrectly under either the PUA or PEUC program at a higher weekly benefit amount (WBA).”**
- 2** **“Specific to PUA, when, through no fault of the individual, the state paid the individual a minimum WBA based on DUA guidance other than UIPL No. 03-20”**
- 3** **“The individual answered “no” to being able to work and available for work and the state paid PUA or PEUC without adjudicating the eligibility issue. Upon requesting additional information from the individual, the individual either did not respond or the individual confirmed that they were not able to work nor available for work for the week in question, resulting in an overpayment for that week.”**
- 4** **“The state paid the wrong amount of dependents’ allowance (DA) on a PUA or PEUC claim because the state, through no fault of the individual, used the wrong amount when calculating the DA, resulting in an overpayment equal to a minimal difference in DA for each paid week.”**



- 5** “The individual answered “no” to being unemployed, partially unemployed, or unable or unavailable to work because of the approved COVID-19 related reasons and the state paid PUA anyway. Upon requesting a new self-certification, the individual either did not respond or the individual confirmed that none of the approved COVID-19 related reasons were applicable, and the state’s payment resulted in an overpayment for that week.”
- 6** “The individual complied with instructions from the state to submit proof of earnings to be used in calculating their PUA WBA. However, through no fault of the individual, the state’s instructions were either inadequate or the state incorrectly processed this calculation using self-employment gross income instead of net income or documents from an inapplicable tax year, resulting in an incorrect higher PUA WBA. The state establishes an overpayment for the difference in PUA WBA.”
- 7** “The individual complied with instructions from the state to submit proof of self-employment earnings to be used in establishing eligibility for MEUC. However, through no fault of the individual, the state’s instructions were either inadequate or the state incorrectly processed this calculation using the incorrect self-employment income or based on documents from an inapplicable tax year, resulting in the individual incorrectly being

**determined eligible for MEUC. The state establishes an overpayment for any weeks of MEUC that were paid.”<sup>36</sup>**

DES is providing blanket waivers for those covered by the sixth scenario—inadequate proof of income for PUA benefits through no fault of the claimant. DES should take advantage of the provisions that allow for blanket waivers in all seven of these scenarios—all of which involve incorrect payments made through no fault of the claimant incorrectly under one of the temporary federal programs—both for the benefit of the claimants, who likely are unable to return the overpayment without undue hardship—and for the benefit of DES, who would expend significant resources attempting to recover these overpayments with a low chance of success. Using administrative resources towards serving existing claimants and improving system resiliency going forward is a better use of these resources. Additionally, overpayment waivers are a solution for inequitable access to the UI system. Misunderstanding questions is a key driver of overpayments, and those with lower education levels and Limited English Proficiency are particularly likely to misunderstand a question that leads to an overpayment. Overpayments are inevitable when claimants have issues uploading documents for review, a problem that affects low-income people disproportionately due to issues in broadband access.<sup>37</sup> Recognizing that overpayments are frequently a result of the same issues that create barriers for equitable access, waiving these overpayments and focusing on improving the system to prevent overpayments from happening in the first place would mark an important step towards reducing inequities.

# CONCLUSION

LEGISLATIVE ACTION IS NEEDED to improve North Carolina's status as one of the worst UI systems in the country for claimants. However, federal funding has provided a great opportunity for administrative improvements that can increase equitable access to benefits that North Carolina workers are entitled to. To remove barriers for these workers, DES has started the process of offering materials in Spanish, reviewing conformity of their materials with plain language guidelines, developing data and analytics dashboards, temporarily increasing staff and programs dedicated to outreach with claimants, providing alternatives to online ID verification, and applying blanket waivers for some claimants who received potential overpayments from pandemic-era unemployment insurance programs. We believe that DES could go further by offering materials in more languages than English and Spanish, extending user testing and evaluation of new materials, increasing outreach capacity and making these hires permanent, making certain data from dashboards publicly available, reviewing both the effectiveness and the burden on claimants of the fraud prevention framework, and by applying as many blanket waivers of pandemic-era overpayments as allowed by US DOL. Whatever limitations on benefits are imposed by the legislature, a resilient and accessible system should be a priority.

# ENDNOTES

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