

Secretary Bill McCamley
NM Department of Workforce Solutions
bill.mccamley@state.nm.us

cc: Ane Romero, Deputy Legislative Director, NM Office of the Governor

May 1, 2020

Sent via email

Dear Secretary McCamley and Deputy Secretary Cordova,

Thank you for your strong response to the COVID-19 epidemic and commitment to ensuring NM families have access to Unemployment Benefits. The undersigned organizations work closely with unemployed community members. We understand the unprecedented strain this crisis has put on DWS' systems and we are grateful for the staff we know are working around the clock to process claims. We also thank you for your collaboration with community groups during this time and willingness to discuss issues as they arise. In that spirit of collaboration, we are sharing the information below to assist the Department in identifying and eliminating barriers New Mexicans are experiencing in accessing Unemployment. We've provided some technical information and recommendations below.

Provide clear and consistent information about required immigration documents

The application provides inconsistent information about verification of immigration status. When initiating an application, the application states that 1) families only need their A number, then 2) asks for the number associated with their immigration document and its expiration date and tells families they do not need to do anything else and then 3) upon submittal always instructs families to mail copies of their immigration document because "immigration status cannot be verified." Copying and mailing immigration status documents is extremely burdensome, especially during this time and delays families' benefit approval. Below are two ways that DWS can streamline the application process for immigrant families:

1. ***Verify immigration status electronically***

DWS' initial request for an A number is not mandatory and DWS does not actually attempt to verify the status through electronic interface. The Systematic Alien Verification for Entitlements (SAVE) system can and should be used to verify status electronically without requiring documentation from families to the greatest extent possible. SAVE requires the applicant's first and last name, DOB and a numeric identifier such as an A-number.¹ SAVE has fields to collect information such as a document type and number. However, neither the actual document nor the document type or number are always required to verify immigration status.² Document type is a *preferred* field because it increases the likelihood of a match, but it is not *required*.³ Status can be

¹ SAVE Minimum Requirements for Verification available at <https://www.uscis.gov/save/about-save/verification-process>

² See Assister Guide to the Immigration Section of the Online Marketplace Application, access at: <https://marketplace.cms.gov/technical-assistance-resources/assister-guide-to-immigration-section.PDF>

(providing that SAVE only asks for document type, not an actual document and that having specific information about an actual document improves the chances of a successful SAVE match but is not required.)

³ *Id.*

verified through SAVE in many instances with biographic information, a date of entry and an A-number.⁴ HSD has these interface capabilities with SAVE.

2. ***Allow workers to upload immigration status documents:*** DWS already offers applicants an opportunity to upload documents after part 1 of the application. However, it does not specifically offer the opportunity to upload immigration status documents and indicates such documents will not be required, when for at least the time being, DWS always requests the documents. Allowing workers to upload a copy or picture of an immigration status document will ensure families benefits are not delayed due to national origin.

Ensure that immigrants who have timely filed to renew their immigration status receive UI.

We want to be sure DWS has clear guidance that Lawful Permanent Residence status does not expire and an expired Lawful Permanent Resident Card does not indicate a lack of authorization to work. Federal regulations specifically state that "[a]n expiration date on the Form I-551 reflects only that the card must be renewed, not that the bearer's work authorization has expired." See 8 CFR.274a.12(a)(1). This has been a reoccurring issue with UI claims and we ask that you provide guidance to your staff so expired LPR cards do not trigger a denial or delay of benefits.

Provide Access to UI information and application in languages required by federal law.⁵

Based on current U.S. census data, information should be available in Spanish, Vietnamese, Chinese and Diné. The online application is currently only in English and the login page directs Spanish speakers (in Spanish) to call a customer service agent at the Unemployment Benefits Operations Center in order to process an application.

Until translation is complete, DWS should explain on the website, with information in multiple languages, that certain linguistic groups must apply by phone. For example, direct Vietnamese and Chinese speakers to the call center as is done for Spanish speakers. The application does not have information for languages other than Spanish and English. Call center staff must have access to phone interpreting services to help speakers of languages other than English apply for unemployment insurance.

Allow applicants to fix typographical errors in their applications that deny benefits.

DWS' system currently denies applicants who input incorrect information, like a birth date or name misspelling. This is noted as a reason for a denial. When applicants attempt to sign back into their application to fix the error, they are not permitted to do so and are told they must call DWS. Allowing applicants to fix and resubmit an application that is denied due to minor errors relieves the burden on DWS phones and ensures eligible workers can access benefits.

Provide information on the DWS website about how families can protect their benefits.

State law protects unemployment benefits from creditors so long as they are not mingled with other funds of the recipient. NMSA 51-1-37. It is critical that New Mexicans know about this protection during this period of extreme financial stress. Letting families know that by accepting benefits on a pre-paid card or not mixing the benefits with other funds in their bank account can prevent creditors from taking the benefits to fulfill debts.

⁴ *Id.*, see also *Information for Noncitizens Applying for a Public Benefit* available at: <https://www.uscis.gov/save/benefit-applicants/information-noncitizens-applying-public-benefit> (stating that an applicant may be required to present the agency representative with documents).

⁵ See 42 U.S.C. 2000d, et seq. Requiring that federal funding recipients provide written translations of vital documents based on the size of the LEP Language population. The "eligible LEP language group must constitute five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered..." by the federal funding recipient.

Establish regularly scheduled communication with advocates and community groups.

In order to facilitate information sharing to communities and constructive feedback to DWS, we ask that a department representative be willing to conduct a bi-weekly call with advocates and community groups. This has been very helpful in establishing one channel for feedback and information with other state agencies, like Department of Health and the Human Services Department during this time.

Thank you again for your strong leadership during this time and comfort considering these important requests. Please follow up with Felipe Guevara from NM Center on Law and Poverty at felipe@nmpovertylaw.org and Huong Nguyen from the NM Asian Family Center at huong@nmafc.org if you have any questions or to discuss these issues further. We look forward to hearing from you.

Sincerely,

NM Asian Family Center
NM Center on Law and Poverty
Center for Civic Policy
NM Dream Team
Asian American Association of New Mexico
KHW Law Center for Social Justice and Change
Catholic Charities of Central New Mexico
Catholic Charities of Santa Fe
Women in Leadership
Greater Albuquerque Housing Partnership
Elderly Housing Development and Operations Corp
ABQ Faith Works Collaborative
Tierra Del Sol Housing Corp
New Mexico Immigrant Law Center
Encuentro
OLE Education Fund
Prosperity Works
Centro Savila
Women's Economic Self-Sufficiency Team, Corp
Progress Now New Mexico
Empowerment Congress of Doña Ana County
Indigenous Women Rising
Forward Together Action
East Central Ministries
Enlace Comunitario
Strong Families NM of Forward Together
United Voices for Newcomer Rights
Refugee & Immigrant Well-being Projects
NAACP, Albuquerque Branch
Quang Minh Temple
NM Moral Minyan (Bend the Arc Jewish Action)

National Asian Pacific American Women's Forum – Albuquerque
Equality New Mexico
Tellez-Humble LLC
New México Legal Aid
New Mexico Comunidades en Accion y de Fe (CAFe)
Mark Clark
Donna Roxey
Maria Coronado
Erich Calixtro
Ricardo Trejo
Eric Shimamoto
Ikuko Begay