

Florida's Unemployment Insurance Hurdles Violate Civil Rights Laws, Says U.S. Labor Dep't

Miami, FL—An investigation by the U.S. Department of Labor's Civil Rights Center has found that Florida's requirement that all unemployment insurance claimants file their applications online and take an online skills test violates federal civil rights and anti-discrimination laws. The issuance of this [initial determination](#) by the USDOL Civil Rights Center is a victory for Florida's unemployed workers with disabilities or limited English proficiency, who have been wrongfully excluded from the state's Unemployment Compensation program as a result of the onerous online requirements.

The State of Florida has just given word that it will agree to enter into negotiations to reach voluntary compliance with the ruling, and put in place remedies to make unemployment insurance accessible to job-seekers unable to complete online filing requirements. The state could face the potential loss of federal funding for its unemployment insurance program if efforts to reach voluntary compliance are unsuccessful.

"Florida has not satisfied its obligations to provide adequate access to its unemployment insurance system. Too many Floridians are having trouble with the new online system, particularly persons facing language and disability barriers, who've been shut out from the unemployment insurance they've earned through their work history," said **Valory Greenfield**, senior staff attorney with Florida Legal Services, who, along with FLS co-counsel Cindy Huddleston, represents the Miami Workers Center, the complainant in the case.

In November 2011, the Miami Workers Center filed a complaint with the USDOL Civil Rights Center, alleging that the state's Unemployment Compensation program was inaccessible to persons with disabilities or limited English proficiency. The complaint was prompted by new unemployment application procedures enacted by the Florida legislature, effective August 2011, eliminating the phone-filing and paper-filing options (previously, 40 percent of applications were filed by phone) and requiring applicants to complete extensive online-only forms and an unprecedented 45-question skills assessment in order to start receiving benefits.

The investigation found that the new online requirements created severe obstacles for thousands of Florida job-seekers, especially those with limited English proficiency or disabilities that prevented them from using a computer. For example, critical information on the agency web pages was not translated into Creole or Spanish: an online tutorial called "Instructions for Filing a Claim and Registering for the Initial Skills Review" appeared in English only. People who might be exempt from the Initial Skills Review got no notice that such exemptions were available. Persons with disabilities who could not use the computer system, as currently configured, were given no alternative means of accomplishing the Initial Skills Review other than online.

In addition, the phone system was found ineffective and deficient. Hours of operation were too limited; calls were dropped; outgoing messages were recorded in English only; inaccurate information was provided about accommodations and exemptions; and there were undue delays if callers needed an interpreter. The findings also noted an overall inability to reach a live attendant. Thus, a "broken" phone system coupled with no meaningful alternative to the online processes left many unemployed Floridians effectively shut out from much-needed unemployment insurance.

"After the Florida legislature's mandated changes went into effect, it soon became apparent to us that people were struggling more than ever to get access to the unemployment program," said **Thamara Labrousse**, executive director of the Miami Workers Center. "One of the biggest hurdles was the 45-question Initial Skills Review, which people had to complete online before they could even get their first check. Although the law protects people with language and disability barriers, the state agency was not telling people they could get excused from or accommodated with this online requirement. The

upshot was that if your disability interfered with using a computer, or you could not read or understand English, your benefits would be denied when you failed to do the Internet skills test online.”

One of the many unemployed workers wrongfully denied jobless aid was **Dianelys Corrales Leon**, whose primary language is Spanish. She went to a state-run One-Stop Career Center to apply and was assisted by a staffer who spoke no Spanish and failed to inform her that the online application was available in written Spanish. The staffer directed her to complete the application in English. “My ability to read and understand English is limited, so I read and understood some parts of the application, but other information I did not understand. I remember clicking on the pages, but I did not understand what the pages were telling me,” Ms. Corrales Leon explained in Spanish. “I never read or understood any information about a requirement to complete an initial skills review, and the One-Stop staff member never explained anything to me about an initial skills review. As a result, I was denied for not doing the skills review.”

Another unemployed worker, **Eva M.** (last name withheld to protect her privacy) echoed the difficulties of navigating the online system and the futility of seeking help from the call center. It took more than two months and the intervention of lawyers to finally straighten out the computer-system error in her case: “I don’t have a disability that interferes with using a computer. I am proficient in English. However, I found it just about impossible to contact DEO about the problem I was having with my claim. I couldn’t reach them easily by phone, and when I did get through, they didn’t resolve my problem. They didn’t respond to my call-back message. They didn’t respond to my emails. I only got a response when I sought legal assistance. It seems to me that a lot of unemployed people who have problems with their claims, yet who don’t have legal help like I did, may not be able to resolve their situations and could end up not getting the desperately needed benefits they’re eligible for.”

The USDOL Civil Rights Center has issued a list of proposed remedies that Florida can implement in order to provide meaningful access for those with limited English proficiency and equal opportunity for those with disabilities. One of the most meaningful remedies, among the many that the Civil Rights Center proposes, is “make-whole” relief. Such relief would offer a way for individually affected claimants to bring themselves to the attention of Florida’s Department of Economic Opportunity (the agency that runs the unemployment program) and present documentation establishing the amount of retroactive benefits that these persons, with language and disability barriers, should receive.

In Miami, volunteer private attorneys may be available to assist many of the Dade claimants who have been deprived of benefits based on technological barriers. Individual claimants in Miami-Dade County can call 305-572-1855. Claimants in other parts of the state should call their local legal aid or legal services program. They can find the program that serves their county by visiting www.FloridaLawHelp.org or looking in a local phone directory.

The Civil Rights Center findings have important national implications for states considering enacting similar restrictions. “This ruling should give serious pause to states that are thinking of adopting online-only systems and other unemployment program restrictions similar to Florida’s,” said **George Wentworth**, senior staff attorney with the National Employment Law Project. “Discriminatory barriers and bureaucratic hurdles that shut people out from the jobless aid they’ve earned through their work are not acceptable. All workers, regardless of their primary language or national origin or even just limited computer skills, have a legal right to expect that their state will not turn the process of applying for unemployment insurance into an electronic obstacle course. And if states go down that road, they risk losing federal funding.”

The civil rights complaint was the first of two complaints filed challenging the new Florida system. In a second, separate [complaint](#) filed with the U.S. Labor Department in May 2012, the National Employment Law Project and Florida Legal Services alleged that a series of online requirements creates unlawful barriers to unemployment insurance, in violation of a Social Security Act requirement that benefits are paid when due. The latest barriers include a requirement to accomplish “work registration” by Internet, using an email address, and supplying a detailed online resume. That complaint remains pending.

Florida has a sizable population for whom English is not the primary language. According to Census figures, 27 percent of Floridians speak a language other than English at home. Approximately 6.9 percent of all households in Florida are limited-English-proficient, 71.3 percent (or 514,141) of which speak a language other than Spanish. Floridians with disabilities have a much higher unemployment rate than the state’s general population. About 4 in 10 Floridians with a disability were in

the workforce in 2010. Among those in the state's workforce in 2010, the unemployment rate for persons with a disability was 24.8 percent, while the unemployment rate for persons with no disability was 12.5 percent.

Florida Legal Services, Inc. (FLS) provides civil legal assistance to indigent persons who would not otherwise have the means to obtain a lawyer. As a not-for-profit statewide support center to legal services offices throughout Florida, FLS is dedicated to ensuring poor people have equal access to justice. The National Employment Law Project is a non-partisan, not-for-profit organization that conducts research, education and advocacy on issues affecting low-wage and unemployed workers. For more about NELP, visit www.nelp.org.

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