

Policy As Code: Enabling Improvements for More Timely Delivery of Unemployment Insurance

Jessica Rossman, Barbara Cohn, Mimi Liu, Ossama Alami, Steve Leibman

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I. Executive Summary

In the aftermath of the Great Depression, the first nationwide provisions for unemployment assistance were passed as part of the 1935 Social Security Act (“SSA”)¹. Since that time, unemployment insurance (“UI”) assistance has been a long-standing partnership between the Federal Department of Labor (“DOL”) and the State agencies who are charged with implementing these programs.²

Eighty five years later, in 2020, due to the magnitude of the pandemic crisis, Congress looked to the SSA, in particular UI, to provide an economic social safety net for millions of citizens newly unemployed almost overnight. On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), authorizing States to implement three new federally funded UI programs (Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC))³, temporarily expanding UI eligibility and benefits. The intent of the new programs was to provide emergency assistance for individuals affected by the pandemic, and as soon as possible, given the gravity of the historic and sudden spike in unemployment claims.

The COVID-19 pandemic crisis is unique, but the failure of systems relied upon to provide UI deepened the impact of some of the issues long known⁴⁵. The implementation of the CARES Act strained the States’ ability to seamlessly execute on their UI programs. States were processing an unprecedented number of claims, while simultaneously seeking to modify their existing legacy systems to implement the new provisions. Implementation guidance for the new provisions was provided by the USDOL Employment Training Administration, but was far from straightforward.

¹ Section 303, Social Security Act (SSA), 42 U.S.C. §503

² 42 U.S.C. § 503(a)(1).

³ “This UIPL focuses on Section 2107 of the CARES Act, which authorizes the temporary PEUC program. In short, this program provides eligible individuals with up to 13 additional weeks of benefits to individuals who have exhausted their regular unemployment compensation (UC) entitlement.”

https://wdr.doleta.gov/directives/attach/UIPL/UIPL_17-20.pdf

⁴ <https://www.gao.gov/assets/660/657735.pdf>; 2013 GAO Report: UNEMPLOYMENT INSURANCE INFORMATION TECHNOLOGY States Face Challenges in Modernization Efforts, citing NASWA report: In a survey published by the National Association of State Workforce Agencies (NASWA) in 2010 - National Association of State Workforce Agencies Center for Employment Security Education and Research, Information Technology Support Center, A National View of UI IT Systems, July 2010.: “Over 90 percent of the systems run on outdated hardware and software programming languages, such as Common Business Oriented Language (COBOL), which is one of the oldest computer programming languages.”

⁵ US DOL Secretary Scalia Testimony before Senate Finance Committee, 6/9/20: “One of the greatest challenges in the UI system is the information technology infrastructure used by States to administer their programs. Fifty-one different systems are used by the States; the average age of these systems is 28 years. Many States’ systems are more than 40 years old. These cumbersome, outdated systems inhibit the collaboration and data-sharing associated with sophisticated program management. Although some States have made the investment needed to maintain their systems, few have been able to implement much-needed overhauls, and even fewer have installed new and more nimble systems.” <https://www.finance.senate.gov/imo/media/doc/09JUN2020SCALIASTMNT.pdf>

This is best exemplified by the issuance of numerous guidance letters from the US DOL without, necessarily, input from the States. Specifically, between March 2020 and September 2020, the USDOL guidance issued nearly 30 Unemployment Insurance Program Letters (UIPL) containing over 460 pages of guidance including 364 references and 63 attachments. “By comparison, in 2019, the Department issued a total of 19 UIPLs the entire year.”⁶ Statements from Governors in news reports noted the ambiguity and confusion in guidance.⁷

This paper explores the question of how the US Department of Labor can work with State UI Agencies in a more effective and collaborative way to help ensure a quicker implementation of UI programs in times of crisis, non crisis. and a changing workforce (e.g., gig and contract workers).

One means of closing this communication and collaboration gap to more quickly and nimbly respond to change is for the DOL to issue UI guidance as “code.” That is, directly implementable logic — rather than through natural language which is open to divergent interpretations by the reader.

This concept is called “*Policy as Code*”, taking the rules and policies established by federal law and issuing machine-readable logic that can be tested for consistency and correctness. Importantly, the recommendation contained herein does not propose encoding the entirety of legislative language. Rather, it is proposed that “Policy as Code” be utilized, for example, for specific sections of legislation that lay out the complex eligibility rules and interplay between them. Examples include policies which can be automatically coded to enforce rules such as “if...then” as well as others (see Section III. C. 4. a. for “Policy as Code” examples). This code should be accompanied by a reference implementation⁸ to further ease the burden on the States trying to navigate the legislation and guidance.

In terms of impact, enabling States to process unemployment assistance faster, whether by a day, one week, or more would be invaluable and directly benefit and impact those most in need.

II. Key Issues and Challenges

When the COVID-19 pandemic hit, the United States and businesses essentially closed down overnight, and the number of unemployed people surged exponentially placing an untenable strain on a system that was already bending out of shape. The challenges identified below created the perfect storm for delays in unemployment assistance - whether by a day, weeks, or months. People in need can't wait.

⁶ https://wdr.doleta.gov/directives/corr_list.cfm

⁷ <https://www.politico.com/news/2020/04/15/workers-struggle-to-claim-unemployment-relief-188814:..>
<https://baltimore.cbslocal.com/2020/05/27/coronavirus-unemployment-hogan-press-conference-latest/>

⁸ “This reference would be available in a format that allows re-creation — that format would be source code for software implementations — and a set of conformance tests that sufficiently ensure the implementation’s integrity under all reasonable conditions of projected use.”

<https://www.gartner.com/en/information-technology/glossary/vendor-neutral>

Looking at the bright side through the darkness, however, this is an optimal time to address the issues and challenges facing UI programs that have been highlighted during this time of crisis:

- Old legacy computer systems that in the best of times were limping along (Government Accountability Office reports⁹), and during crisis could not be quickly programmed for those newly eligible claimants (e.g., gig and independent contractors)
- Complex guidance from the DOL presented in a non-user friendly manner
- The goals of the Federal and State governments are not always aligned
- The State agency is hesitant to draw attention to itself by asking questions “it should already know the answers to” so as not to be scrutinized by the Federal government who has power to audit, issue penalties, withhold funding
- There is a lack of resources at both the Federal and State level.
- Misaligned goals between the DOL and State agencies: Focus by the Federal Department of Labor on identifying fraud and improper overpayments and focus by the states on processing claims; both focused on getting people back to work
- Lingering and unaddressed issues from the last great recession regarding customer service challenges faced by UI claimants and state UI programs¹⁰

These issues, detailed below, are categorized as communication and collaboration obstacles and business process obstacles.

A. Communication and Collaboration Obstacles

1. Top-Down, One-Size-Fits-All Approach

Confronted by a pandemic that had not been seen since 1918, the Federal government was faced with historic unemployment numbers. In response, Congress passed the CARES Act which contained three new UI programs designed to provide much-needed, expanded support for the ever-growing unemployed population. Passed on an expedited basis, this crisis legislation included language that required clarification. Our research suggests that there was not a great deal of input, if any, by the States regarding how the new requirements would be implemented. The result was playing catch up and, as noted, multiple UIPL to clarify ambiguous and confusion legislative language.

Desk research performed included discussions with individuals with federal experience and/or knowledge of the workings of government. Anecdotes culled from discussions are consistent in suggesting that communication and collaboration between the Federal and State governments regarding implementation of Federal programs, even during “normal” times, can be further enhanced.

⁹ Ibid, footnote #5

¹⁰ <https://www.gao.gov/assets/680/677082.pdf>

This is not to say that the desire for communication and collaboration are not goals of all parties involved in the calculus. This is illustrated by DOL Secretary Eugene Scalia's testimony before the US Senate Finance Committee where he highlighted efforts undertaken by the DOL:¹¹

- In nine weeks between mid-March and mid-May, the Department issued 19 separate UIPL guidance documents directly related to COVID-19. By comparison, in 2019 the Department issued a grand total of 19 UIPLs the entire year.
- The Office of Unemployment Insurance has hosted fourteen webinars to provide direct implementation support to state unemployment insurance directors.
- On these calls, Department staff provided guidance on needed adjustments to state laws, best practices for implementing COVID flexibilities, and measures to protect program integrity
- In addition to the webinars, Assistant Secretary for Employment and Training John Pallasch has convened state workforce agency leadership and UI directors multiple times to discuss program integrity, innovations in identifying and stopping fraud, and to respond to questions raised by state officials.
- I have joined the Assistant Secretary's calls with state UI directors twice, in addition to arranging calls with more than 20 Governors since mid-March to discuss challenges and questions they were confronting, and to let them know of the resources the Department was providing."

Notwithstanding these efforts, research highlights¹² insufficient two-way collaboration with the States. The methods of communication and collaboration would benefit from being reviewed for effectiveness and potential enhancements.

2. Complex Templated Advisory Letters

The Employment and Training Administration (ETA), is the Division of the US DOL tasked with issuing the guidance and advisory letters. A review of the numerous guidance letters issued between March 2020 and September 2020, reveals the complexity that State agencies had to wade through in trying to understand how the new legislation must be implemented and associated legal requirements.

¹¹ <https://www.finance.senate.gov/imo/media/doc/09JUN2020SCALIASTMNT.pdf>

¹²ibid 7. <https://www.politico.com/news/2020/04/15/workers-struggle-to-claim-unemployment-relief-188814>

"After Congress passed the CARES Act, the U.S. Department of Labor attempted to limit this program by creating real regulatory obstacles for implementing it," Pritzker said Monday. "It has taken U.S. Department of Labor weeks to issue guidance to the states. And they've promulgated confusing and very stringent regulations that attempt to severely limit who can actually qualify.....Despite the labyrinthian regulations," the Illinois governor said, his state's payments to independent contractors should go out within a month.

"The technical issues alone weren't the major issue, he said. "They've changed guidelines at the federal level 12 times since the program came out a few weeks ago.."

<https://baltimore.cbslocal.com/2020/05/27/coronavirus-unemployment-hogan-press-conference-latest/>

As with any new legislation, the core user¹³ impacted by the law (identified in the stakeholder map in Appendix D as the State Departments responsible for UI implementation), had to go through a process to understand it, and change its practices to comply (where required). This typically entails a complex set of steps:

- Analyzing and assessing the new legal requirements
- Determining what aspects of the business/process flow etc. are impacted by the new legal requirements;
- Determining how current practices need to change;
- Developing a roadmap to make those changes;
- Communicating and training personnel on those changes;
- Identifying external stakeholders impacted by the change;
- Assessing how best to encourage their adoption and understanding of those changes;
- Implementing those changes that impact the external stakeholders;
- Monitoring to determine the changes appropriately address the issues;
- Iterating and pivoting, as necessary

Regarding the CARES Act, the requisite changes could not be made overnight. Immediate change was not possible, setting expectations that were untenable.¹⁴ Reviewing the complexity of one of the nearly 30 Unemployment Insurance Program Letters, (UIPL) 16-20, concerning the Pandemic Unemployment Assistance Program demonstrates that DOL/ETA guidance is not immediately translatable into implementation. Indeed, it is just as complex and confusing as the underlying legislation.

¹³ Core User is distinguished in the Stakeholder Map in Appendix D from stakeholders directly affected which includes applicants for unemployment insurance.

¹⁴ Challenges related to the speed of implementation, coupled with the dramatic increase in the volume of applications, have been described in great detail in the California “Employment Development Department Strike Team Detailed Assessment and Recommendations”
<https://www.govops.ca.gov/wp-content/uploads/sites/11/2020/09/Assessment.pdf>

For example, the first version of UIPL 16-20¹⁵ which was issued on April 7th 2020, contained 43 pages including six attachments¹⁶, and eight links references.¹⁷ UIPL was revised three additional times¹⁸ on April 27th, July 21st, and August 27th. The last revision, on August 27th came more than four months since issuance of the initial guidance. In the forward, USDOL ETA noted the purpose of 16-20 Change 3 was as follows:

“States have gained experience administering the PUA program under the CARES Act, Public Law (Pub. L. 116-136), and have identified additional questions about the PUA eligibility of individuals who are caregivers and affected by school systems reopening. The purpose of this Unemployment Insurance Program Letter (UIPL) is to address those questions concerning the PUA program.”

This is but one example of the nearly 30 UIPLs issued between March 2020 and September 2020. Understanding, implementing, training, and communicating the content of guidance can be a difficult undertaking. Managing this process with an unprecedented number of guidance letters (the same number of guidance letters were issued in two months as were issued in the entire calendar year for the preceding year¹⁹) is by most objective standards, unmanageable. This is especially true considering the fact that the guidance was changed regularly to provide

¹⁵ https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20.pdf

¹⁶ Attachment I: Pandemic Unemployment Assistance (PUA) Implementation and Operating Instructions 7 • Attachment II: General Provisions for Administering the Pandemic Unemployment Assistance (PUA) Program • Attachment III: Statutory Language of Section 2102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 • Attachment IV: Supplemental Budget Request Application • Attachment V: Instructions for Completing the SF424 and SF424A • Attachment VI: Handbook No. 401 Reporting Instructions for ETA 902-Pandemic Unemployment Assistance

¹⁷ References. • Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), Title II, Subtitle A – Relief for Workers Affected by Coronavirus Act; • Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); • 20 C.F.R. Part 625 – Disaster Unemployment Assistance; • Unemployment Insurance Program Letter (UIPL) No. 10-20, Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19), issued March 12, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8893; • UIPL No. 14-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility, issued on April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390; • UIPL No. 15-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions, issued on April 4, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297 ; • ETA Handbook No. 356 Disaster Unemployment Assistance, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2124 ; and • ET Handbook No. 401, UI Report Handbook, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7774 .

¹⁸ https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899;
https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5479;
https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3849

¹⁹ Ibid, see fn #6; US DOL Secretary Scalia Testimony before Senate Finance Committee, 6/9/20 “In nine weeks between mid-March and mid-May, the Department issued 19 separate UIPL guidance documents directly related to COVID-19. By comparison, in 2019 the Department issued a grand total of 19 UIPLs the entire year—and of course, the 2020 UIPLs to date concerned novel and often complex issues.”
<https://www.finance.senate.gov/imo/media/doc/09JUN2020SCALIASTMNT.pdf>

the most up-to-date information or to clarify past communications. Just like the legislation itself, the guidance letters must be analyzed and assessed for implementation purposes.

The information conveyed by these letters is both important and necessary. However, the communication and collaboration that leads to an enhanced understanding of requirements and efficient delivery of benefits to individuals in need during a crisis can be improved.

B. Business Process Obstacles

1. Requisite Coding and Ambiguity

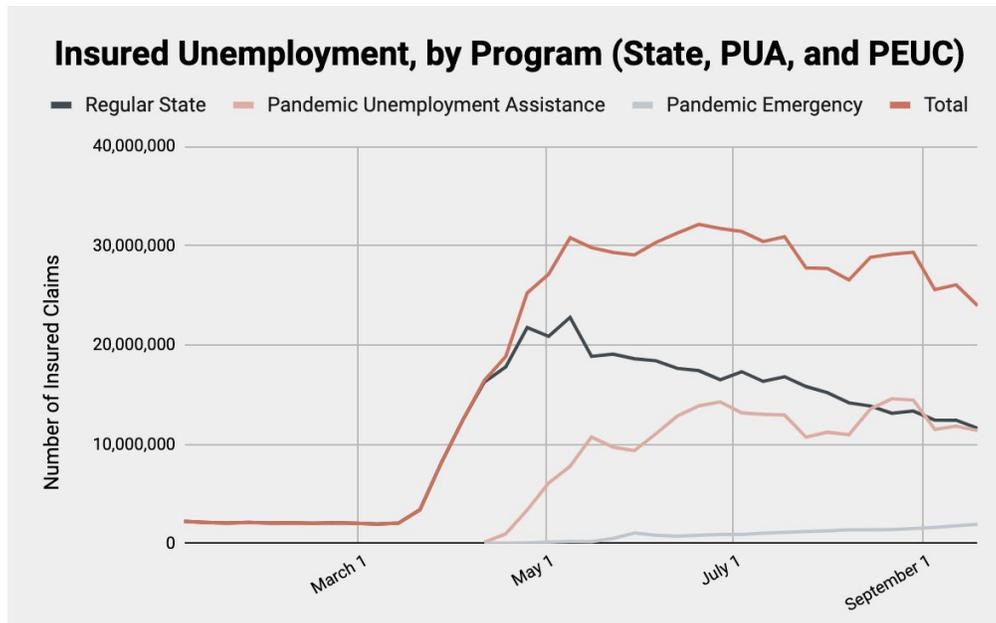
Especially in times of crisis, during attempts to move quickly to fill critical needs, communication gaps arise which result in course corrections while moving forward. When enacting legislation, the communication gap can be exacerbated when process flows of how new legislation should be implemented from a technical perspective are not considered ahead of time.

As described, during this pandemic crisis, the Federal government made a number of changes to unemployment insurance benefits including the addition of FPUC, PUA, and PEUC benefits, resulting in the ETA issuing more than 30 UIPL consisting of 460 pages of guidance which includes, 364 references, and 63 attachments (See list of UIPL in Appendix H). On its face, the avalanche of advisory letters do not take into consideration the implementation constraints that State agencies faced. The ongoing changes to the guidance letters inherently demonstrate the implementation constraints discovered over time.

The legislation and guidance letters reference “regular” UI claims and benefits. FPUC, PUA and PEUC eligibility requirements then need to be layered on top and/or incorporated into the current “regular” eligibility requirements. That means that once the states analyze and assess those requirements, they then need to code those new requirements into their current systems to account for those changes. As additional guidance was issued, additional changes needed to be coded.

2. Record Number of Claims

The State agencies were receiving all of this new information and new requirements, while processing an unprecedented number of claims.



Source: The Century Foundation and New America

The record number of claims literally broke many state UI websites²⁰. As a result, states ended up implementing workarounds such as (a) only allowing claims to be filed during certain days of the week; (b) only allowing people whose last name begins with A-M to file claims on certain days and N-Z on other days; (c) shutting down websites on the weekend to allow for updates to be made. Phone calls too were so significant that State had to onboard entirely new call centers to handle the volume.

Despite the unprecedented number of “regular” claims breaking the already fragile UI systems, the three newly enacted UI programs under the CARES Act forced the states to institute changes to legacy systems in weeks which would normally take many months. Dramatic changes like these layered on top of legacy systems are unsustainable for the long term.

3. Communication Gaps and States taking Individual Actions without the Benefit of Best Practices

States implemented the CARES Act as quickly as possible as individually they interpreted the guidelines. To assist, and fill the gap of communication, the National Governors Association took the step to try and share best practices as practicable²¹.

The New York State DOL Commissioner depicted New York’s undertaking as follows: “As this wave was crashing over New York, we immediately began to address these issues with real

²⁰ NBC News “Coronavirus: State unemployment websites crash as applications surge” <https://www.nbcnews.com/news/us-news/coronavirus-state-unemployment-websites-crash-applications-surge-n1162731>

²¹ <https://www.nga.org/wp-content/uploads/2020/04/Summary-of-Unemployment-Insurance-under-COVID-FINAL.pdf>

time technology updates.” This included launching a new online unemployment application, a call back initiative, expanded call center and online filing hours to seven days a week, a communication initiative, and more. “We did everything within our power and authority to cut through the bureaucratic red tape and get New Yorkers their benefits as quickly as possible. However, we are bound by specific federal laws and regulations to safeguard against fraud”²².

III. Recommendations

A. Translating Policy to Implementation

In the current structure, policy is dictated as a combination of laws and guidance expressed in English and conveyed to fifty three separate “entities” (State agencies, including the District of Columbia, Puerto Rico and the Virgin Islands). In turn, these entities must interpret the policy and create their own implementations of forms, websites, and human processes that finally enable benefits to be delivered to citizens.

The separation between the specification of policy and the implementation creates opportunity for ambiguity, misinterpretation, and in some cases, results in policies that cannot be delivered because of internal inconsistencies that are only discoverable during the implementation phase.

The “*Policy as Code*” approach is designed to express policy in a language that is explicitly designed to remove ambiguity. It provides iterative mechanisms for feedback in which the implementation concerns from the States can be shared back to the Federal level, and produces working artifacts such as software that can be shared between States in order to reduce the cost and time required to deliver value to citizens.

B. How Policy as code has been successfully used in other areas

Policy as code has been shown to benefit similar problem spaces in government. The digital service 18F, which sits within the General Service Administration in the US federal government, has piloted the use of policy as code to improve Supplemental Nutrition Assistance Program (SNAP) eligibility verification.²³ In New Zealand, “Legislation as Code²⁴” has also been introduced by the Service Innovation Lab to address cross-agency opportunities within the New

²² Roberta Reardon, Commissioner, New York State Department of Labor, August 13, 2020, Testimony before NYS Legislature; <https://www.nysenate.gov/sites/default/files/nysdolreardontestimony.pdf>

²³ Rapid Implementation of Policy as Code <https://18f.gsa.gov/2020/05/12/rapid-implementation-of-policy-as-code/>

²⁴ <https://serviceinnovationlab.github.io/projects/legislation-as-code/>

Zealand government.²⁵ The success of this effort has led to further experiments with Policy as Code in additional countries, including Israel, Uruguay, and Canada.

C. Suggested Rollout Processes

It is recommended that in order for “Policy as Code” to be successful, it is necessary to have two way communication and collaboration between the DOL and State agencies. The following is a proposed roadmap for enabling that communication, collaboration, and ultimately, policy as code.

1. Hackathon/Design Sprint

“Policy as Code” must be a joint effort between the DOL and the State agencies as the primary factor missing in current guidance issued by the DOL is an understanding of the State systems and the constraints of the States based on those systems. Accordingly, it is necessary to have the “implementers” of the guidance “at the table” for the discussions. In this case, the “table” is a hackathon or design sprint where those issuing the guidance and those implementing the guidance are working together to see what works for the States in “the real world”.

A “hackathon²⁶” is an event in which all necessary participants are brought together with the explicit goal of creating functional end-to-end implementations in a compressed time period. While hackathons within government are a relatively recent phenomenon, they have now been embraced by many agencies²⁷ and address a variety of issues.²⁸

The process recommended here is as follows:

- With the help of NASWA, the States and the DOL can be brought together on neutral territory.
- In advance of the event, the DOL will send the State agencies proposed guidance, highlighting the goals of the DOL.
- The State UI agencies will bring together all persons necessary to review the DOL guidance and goals and will then designate the representatives to attend the event.

The success of this event is tied to the composition of the attendees and will require buy-in and time set aside from a broad range of individuals. The ideal attendee list would include those with first-hand knowledge of both the implementation and usage of the states’ UI system. Attendees

²⁵ Better Rules and Legislation as Code <https://serviceinnovationlab.github.io/projects/legislation-as-code/>

²⁶ Also sometimes called code-a-thons. “A codeathon is a unique forum for collaborative problem solving that results in concrete software solutions that can be implemented to address critical challenges.” <https://open.nasa.gov/blog/coding-for-better-government/>

²⁷ The first hackathon hosted by the White House in 2016, in which the Department of Health and Human Services invited participants to help improve foster care <https://www.fosterfocusmag.com/articles/first-ever-white-house-hackathon>

²⁸ Hackathon, policy moves designed to apply tech to foster care programs, <https://fcw.com/articles/2016/05/27/hackathon-foster-care.aspx>

could include technical roles (software engineers, UX, designers) as well as policy experts from the ETA.

There are many possible ways to run this event:

- Attendees could be split out into teams and tasked with delivering end-to-end policy; or
- Teams could be tasked with focusing on a particular aspect of policy or particular type of deliverable (like automated tests, UX flows, etc).

In addition to the participants described above, end users can provide valuable feedback. Here, the end users are both State employees managing the day-to-day operations and people who are using the system to obtain benefits. Outcomes can be tested quickly and alterations can be made on the spot based on feedback from users.

2. Multi-State Council

The National Association of State Workforce Agencies (NASWA), or similarly situated organization that can organize the State, should implement a Multi-State Council (“Council”) made up of at least five (5) states that have demonstrated objective success in implementing UI programs. The Council should be made up of representatives of these states, representatives of the DOL ETA, NASWA, and independent third parties that have expertise in implementing new IT systems (infrastructure and process flows) on a budget. The Council will “judge” the hackathon/design-a-thon and make recommendations on next steps.

3. Reference Implementation²⁹

Prior to the issuance of new “Policy as Code” the Council will create a reference implementation. The reference implementation will serve as a fully implemented operational State UI system which sets the standard from which other State UI implementations are based.

This reference implementation will be piloted by the States that make up the Council. At the end of the pilot the Council will use the feedback obtained through the pilot period to make alterations to the reference implementation, as needed.

The Council will then issue the “policy as code” along with the reference implementation that can be used by the States, at their discretion. This provides a proven system to draw from and high confidence that the issued “policy as code” will be correct.

²⁹ As described by Eric Dalci, Elizabeth Fong, and Alan Goldfine in plans for developing a Government Smart Card specification, a reference implementation is, “an implementation of a specification to be used as a definitive interpretation for that specification. [...] at least one relatively trusted implementation [...] is necessary to (1) discover errors or ambiguities in the specification, and (2) validate the correct functioning of the test suite.” <https://web.archive.org/web/20060928231404/http://xw2k.sdct.itl.nist.gov/smartcard/document/ref-imp51.pdf>

4. Policy as Code

a. Example: Computing Benefit Amounts

As an example of the “Policy as Code”, a sample subset of UI law was reviewed. For demonstration purposes, a small rule set was reviewed which appears, at first glance, to have little opportunity for misinterpretation. Upon closer inspection, however, it turns out that a real world implementation covering even this simple example could make a dramatic difference to thousands of UI applicants who had their benefits incorrectly denied or delayed in April 2020.

For our example, consider the following. These statements have been distilled from several pages of text in section 2104 of H.R. 748 (the CARES Act)³⁰.

1. If a claimant is eligible under State law for regular unemployment compensation, then in addition to their regular unemployment compensation they will receive \$600/week for any week the claimant maintains their regular unemployment compensation eligibility.
2. The State may pay benefits under this provision at the same time and in the same manner as regular unemployment compensation payments or the state may pay these benefits separately, but on the same weekly basis.

The initial step of converting reams of legalese to business rules expressed as simple logical statements is a task currently undertaken by each State independently. This represents a stage in which misinterpretation is possible in the current system, and an opportunity for the federal government to change the process in order to ensure that the intent is clear.

Rather than leaving the States with reams of text that attempt to explain the logic in provisions #1 and #2 above, a reference implementation should be created that is able to compute the amount of money owed in benefits to a claimant.

The text above can then be reduced to something as simple as:

```
if eligible_for_ui and cares_act_still_active:  
    weekly_benefit = weekly_benefit + 600
```

This would be the code added to the basic UI eligibility criteria, which would work something like this:

```
if unemployed and not_fault_of_claimant and base_period_worked:  
    federal_requirements_met = true  
  
if federal_requirements_met and state_requirements_met:  
    eligible_for_ui = true
```

³⁰ <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

Though this initial example is a simplistic example, it demonstrates that when using a language that has been designed explicitly for the purpose of minimizing ambiguity and conveying a logical rule set, policy can be described concisely with no room for misinterpretation.

Parallel efforts along the lines of this same idea are underway in various governments, and examples similarly targeted at the computation of benefits can be found in the “OpenFisca” platform, a project sponsored by the Direction Interministérielle du Numérique (DINUM) within the French government.³¹

b. Example: A Unified Multi-Program Application

PUA, as defined in section 2102 of the CARES Act, was intended for those now out of work who had been generally self-employed (e.g. independent contractors or gig economy workers), as opposed to those who had regular W2 jobs and are eligible for enhanced unemployment benefits under the Pandemic Emergency Unemployment Compensation (PEUC) program.

The policy dictates that PUA only be paid to claimants not eligible for regular UI benefits, which would be the case for gig and contract workers.

When applying the new PUA requirements, many states required applicants to first apply for regular benefits and be denied prior to applying for PUA benefits. For the applicants themselves, this implementation is confusing, emotionally distressing, delays their ability to receive benefits, and is entirely unnecessary. Furthermore, it has the potential to place additional load on the legacy systems for processing regular UI, with applications that are expected to be denied. This particular scenario and associated arguments have been well described by Jennifer Pahlka, adviser to US Digital Response in a blog post³² that also introduces a sample PUA application implementation³³.

The approach may have been a result of how the States interpreted the law, reading that a covered individual is one who “is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107”. In the alternative, it may simply have been perceived as the most expeditious way to build upon legacy systems already designed for regular UI applications. In either case, the approach could have been improved through the creation of a reference implementation coordinated by the federal government, demonstrating a simple way to accept applications for all forms of UI, and by considering the needs a broader set of stakeholders in such an implementation.

³¹ <https://openfisca.org/>

³² Pahlka, Jennifer, “What states must do about Pandemic Unemployment Assistance” <https://medium.com/u-s-digital-response/what-states-must-do-about-pandemic-unemployment-assistance-e4a96b6c7db>

³³ US Digital Response, Pandemic Unemployment Assistance form demo, <https://papua.usdigitalresponse.org/>

The Policy as Code below builds upon a sample PUA application created by the US Digital Response team. It walks through a reference implementation of a unified system that would allow an individual to walk their way through an unemployment benefits application without first having to understand the different programs in depth or to go through a multi-step process. The code underlying this sample application behaves more like one would expect if they have experience using products like TurboTax, in which the software walks the user through a process to help them discover what benefits are appropriate for them, and submits a single clean application for the correct programs:

```
def ApplyForUIBenefits():
    if unemployed and not_fault_of_claimant and base_period_worked:
        federal_ui_requirements_met = true

    if federal_ui_requirements_met and state_ui_requirements_met:
        eligible_for_ui = true

    return eligible_for_ui

def ApplyForPUA():
    if unemployed and not_fault_of_claimant and (self_employed or
1099_worker):
        approved_for_pua = true
    return approved_for_pua

approved_for_ui = ApplyForUIBenefits()

if self_employed or 1099_worker or exhausted_ui_benefits:
    approved_for_pua = ApplyForPUA()

if approved_for_ui:
    benefits = ComputeStandardBenefit()
else if approved_for_pua:
    benefits = ComputePUABenefit()

if claim_week < 2020-07-25:
    benefits = benefits + 600 # Per CARES Act
```

IV. Metrics for Success

In building out this new system for implementation, it is important to understand if the results are successful.

Measures of success are as follows:

1. Implementation time before and after:
 - On average, how long does it currently take states to implement new legislation (i) from the date new legislation is passed; and (ii) from the date new guidance is provided from the ETA, on average across all states for the past 3 years' of legislation, how long does it take for States to go live with the new requirements?
 - Compared to, the average time it takes (i) from the time new legislation is passed; and (ii) a reference implementation is issued, on average across all states does it take for States to go live with the new requirements?
2. Number of guidance letters issued by the ETA:
 - The number of guidance letters, as measured by number, pages, change letters, references and appendices using the "old system"
 - Compared to the number of guidance letters (using the same factors) issued under the "new system".
3. Time it takes states to make an eligibility determination (Presumably, the carry over effect of this new method of implementation will be more definitive accuracy in coding eligibility requirements and determinations):
 - The average time, by state, for an applicant to go through the eligibility process from initial filing of the application to a determination of benefit eligibility under the "old system"
 - Compared to the average time, by state, for an applicant to go through the eligibility process from initial filing of the application to a determination of benefit eligibility under the "new system"
4. Percentage of Claims found in favor of claimant on appeal (presumably, the appeals found in favor of the claimant will go down because initial decisions on eligibility will be more accurate):
 - The average number of claims found in favor of the claimant, by state, on initial appeal from an eligibility decision under the "old system"
 - The average number of claims found in favor of the claimant, by state, on initial appeal from an eligibility decision under the "new system"

V. Conclusion

Government services, and unemployment insurance in particular, are all about people — individuals and families. These services are about putting food on the table, paying rent, and surviving.³⁴

³⁴<https://www.washingtonpost.com/opinions/2020/08/17/where-will-i-end-up-homeless-readers-share-stories-about-expiration-unemployment-benefits/?arc404=true>

We are currently confronted by a pandemic that has resulted in millions of unemployment claims - the numbers of which have not been seen since the Great Depression.³⁵ As UI programs evolve and the nature of work changes, it's clear that there needs to be a framework that enables greater collaboration between the federal DOL and the State agencies. Until implemented, we do not have raw data to support that our proposals will indeed deliver unemployment assistance to people faster, but we believe that this would be a step in the right direction. Our research and interviews uncovered critical pain points (highlighted in Section II) in the current processes which our suggested approach has been developed to address.

“Policy as Code” addresses the ambiguity and human interpretation in the guidance process, but still requires two-way communication between State implementers and the ETA. The “Policy as Code” approach is intended to be an enabler of collaboration, not a replacement for it. The broadest solutions are best informed by a “combination of “automation and human skill.” The recommendations contained herein should not be considered to be a prescription for a single process, but rather a framework in which processes can evolve. By working within this collaboration framework and using code as a concise, descriptive language for policy, our institutions can nimbly adapt to circumstances and deliver high quality essential services – in both times of crisis and non-crisis.

“Shelley Sloan, 50, DeLand, Fla.: “My position was eliminated in March because of covid-19 cutbacks. That same day, I logged into the Florida unemployment system to begin the process of claiming my benefits. I immediately ran into errors, timeouts and system-wide failures.....I was finally able to complete my application, but it took eight weeks before I received any type of funding....For me and my family, that was enough for groceries and gas and that's about it. It did not cover bills, my mortgage, or any unplanned expenses. After 20 years of being gainfully employed, I went from making almost \$1,700 a week to \$275.....At the same time, I also began receiving the additional \$600 per week from the Cares Act. This was a true lifeline, because it provided enough to also pay for bills and other necessary items. Luckily, my husband, an essential front-line worker, was still employed, so we had some income. I cannot imagine a scenario in which we were both out of work. Waiting eight weeks for small unemployment checks would have probably rendered us homeless. The expiration of the federal aid will make it more difficult for us to get by.”

³⁵ Unemployment rose higher in three months of COVID-19 than it did in two years of the Great Recession. “In May, 9 million Americans not in the labor force were in want of a job compared with 5 million in February, per government estimates. But these workers are not included in the official measure of unemployment. Thus, the COVID-19 recession is comparable more to the Great Depression of the 1930s, when the unemployment rate is estimated to have reached 25%.”

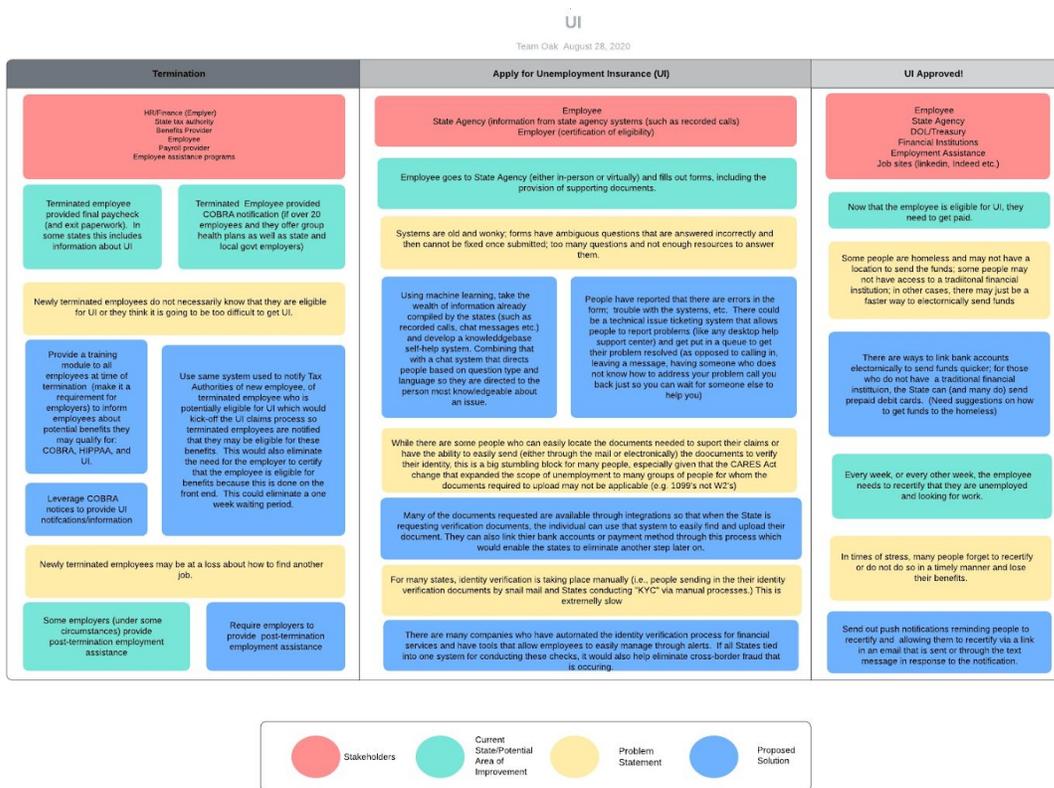
<https://www.pewresearch.org/fact-tank/2020/06/11/unemployment-rose-higher-in-three-months-of-covid-19-than-it-did-in-two-years-of-the-great-recession/>

VI. Appendices

APPENDIX A: Summary of Modification in Approach Over the Course of the Project

This report was created as part of the inaugural class of the eight week “Tech Executive Leadership Initiative” (TELI) – a program jointly organized by the Aspen Institute, Project Redesign, and the Tech Talent Project. The first two weeks of the TELI Program were primarily devoted to desktop research in an attempt to identify the state of the current landscape related to Unemployment Insurance Programs. Our goal was to identify our perceived weaknesses in the system.

Following desktop research, the journey/process that an unemployed person may go through and delineated potential problems and accompanying solutions were mapped out.



The team initially chose to focus on identity verification as a potential issue to investigate further. State-by-state research was conducted, including investigating tools and processes used by states in the identity verification process, and researched the underlying legal requirements that necessitated identity verification as part of the UI process.

Upon learning that the other teams were also looking into identity verification, and that we were putting “solutions” before problem identification, we decided to take a step back and look further into the “journey” that was being experienced. Taking a step back we conducted further desktop research and conducted interviews. The desktop research led us to the determination that Federal statutes, regulations, and guidance can often be confusing and subject to multiple interpretations by the various states.

As noted within, this is best exemplified by the guidance resulting from new pandemic period legislation constituting 30 program letters that contained over 460 pages of guidance, 364 references and 63 attachments. This led to our conclusion that there must be a better way to provide implementation guidance to the various states. Consequently, our team decided to pursue the concept of “policy as code” as a means of providing implementation guidance to the states.

We determined that we wanted to demonstrate how “*Policy as Code*” would work in action. We weighed a couple of options: demonstrating how one could implement a new process for claimant appeals and/or demonstrating how one could streamline the pandemic related guidance into a user-friendly implementation plan.

We investigated the appeals process and how we could use that as an avenue to demonstrate policy as code, but rejected that approach given the lack of readily available interviewees to obtain additional information and to conduct usability testing. Instead, we decided to focus on illustrating the vast difference in guidance related to the pandemic period legislation.

While “Policy as Code” as a concept was interesting, we still needed to narrow down the “means” (i.e., at what stage and in what manner would policy as a code play a role).

Our project focuses on this question: how can we demonstrate that policy as code can play a role in hastening the implementation of unemployment insurance benefits in times of crisis?

APPENDIX B: Desk Research³⁶

Desktop researched spanned multiple avenues, including but not limited to:

- Analysis of statutes and regulations related to unemployment insurance at the Federal and State level, the Patriot Act, The Privacy Act, the CARES Act
- A state-by-state review of all state unemployment websites
- Documented timeline from March 2020 through September 2020 of guidance documents, testimony, and several news reports³⁷
- Analysis of data at oui.doleta.gov
- Review and analysis of information on the NASWA website
- Review and analysis of the pandemic period ETA guidance letters
- News articles from a variety of sources
- Various testimony before Congress and State Legislatures
- Memorandum issued from National Governors' Association
- White Papers from various policy institutes and think tanks
- Reports from the US General Accounting Office (GAO)
- Additional sources - see Appendix J

Considerable desk research on background was conducted to help narrow in on a problem statement and solution. As such, the research was wide-ranging from legislation, guidance letters, news reports, policy institute white papers, government reports, legislative testimony, and more.

While we investigated some areas where “Policy as Code” has been implemented, it is recommended that and further research be conducted on where “Policy as Code” has been used. This will further the understanding of the concept, as well as inform assessment of its value add and lessons learned.

³⁶ Resources and research:

<https://docs.google.com/document/d/10F8GPVq4jOrGLEd1HMpQkxqlwTcRMM4Yx4XSWRjvHsl/edit>

³⁷ https://drive.google.com/file/d/1Ral8YfwgRE_H25wljdzXCfDx3GUwon_B/view?usp=sharing

APPENDIX C: Interviews

The team participated in interviews with the following people:

- Giacomo Bagarella: previously with the Massachusetts Digital Service and spent time focused on improving the workforce system in MA. (See: [Mapping user journeys for a better workforce system in Massachusetts](#))
- Ginny Hunt: Founding Director White House US Digital Service; VP Justice and Opportunity Chan Zuckerberg Initiative
- Cassandra Madison: Tech Talent Project; Former Deputy Commissioner, Department of Vermont Health Access
- Mina Hsiang, US Digital Service Health Data Lead
- Addie Strumolo, Deputy Commissioner, Department of Vermont Health Access
- Reshma Khilnani, US Digital Response
- Michelle Evermore, Senior Researcher and Policy Analyst National Employment Law Project
- 3 people who applied for UI benefits during the pandemic

We cold called several people at the DOL and at State agencies, and reached out to resources to identify anyone who may have contacts at state UI agencies or the DOL, but were unable to identify any contacts that would be available during the timespan of this project. This is somewhat understandable considering that the problem being explored relates to the time pressure and resource constraints imposed on those offices. Two additional group interviews were set up by the TELI project. One of our team members also attended the annual NASWA Conference.

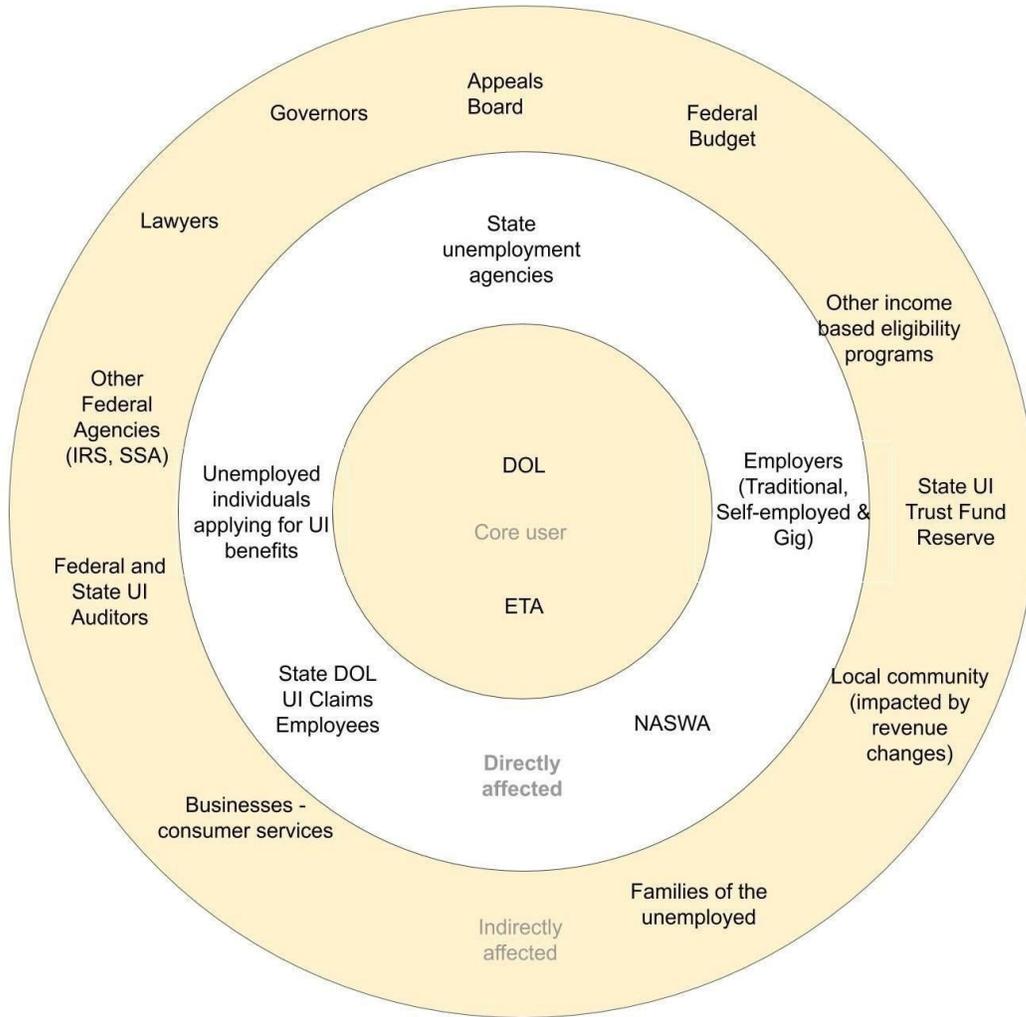
We would have benefitted from conducting interviews with current and/or former employees of the DOL, and specifically the ETA, the State agencies as well NASWA, and recommend that it be done by those continuing to explore the ideas discussed here.

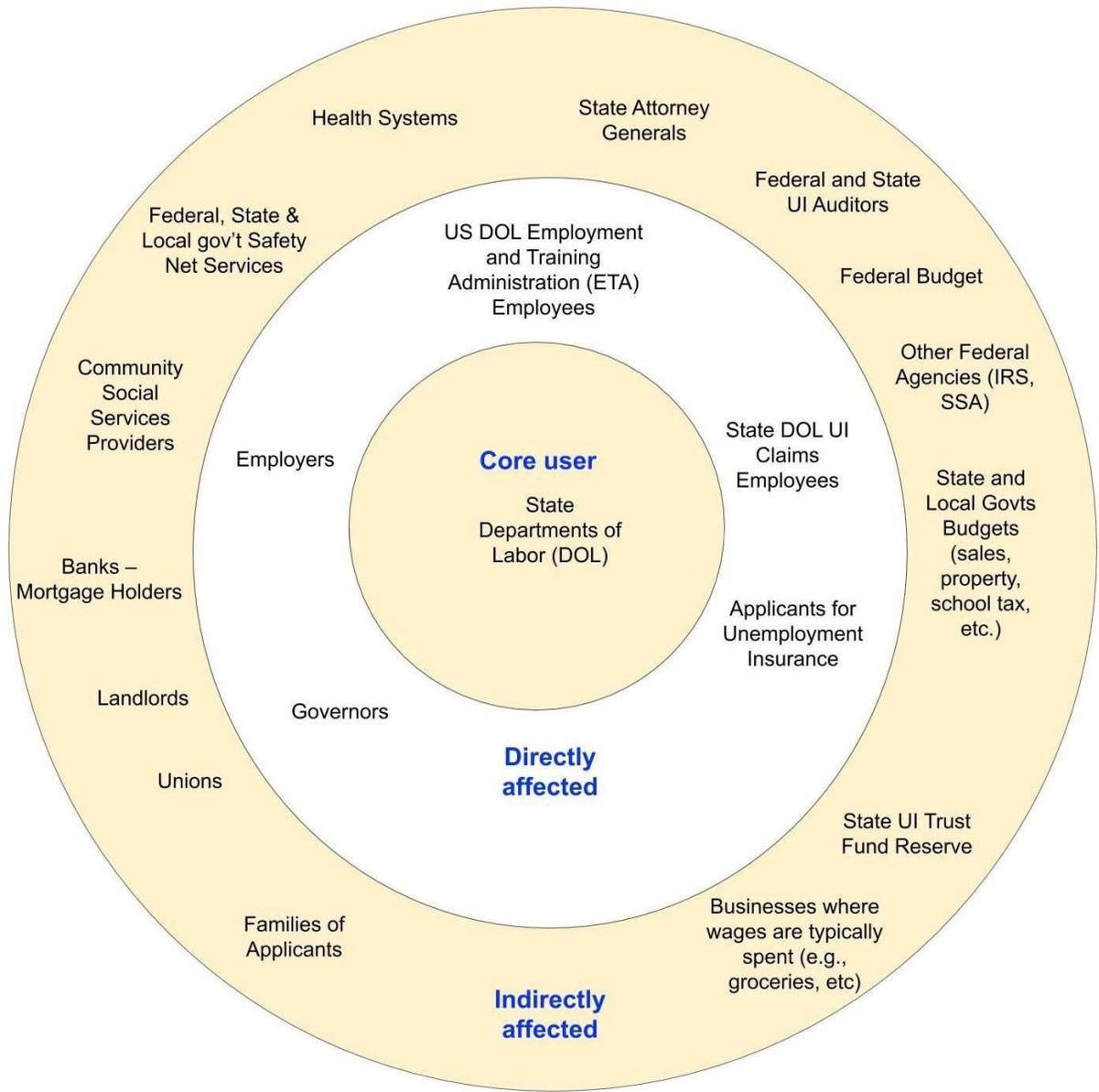
APPENDIX D: Stakeholder Map

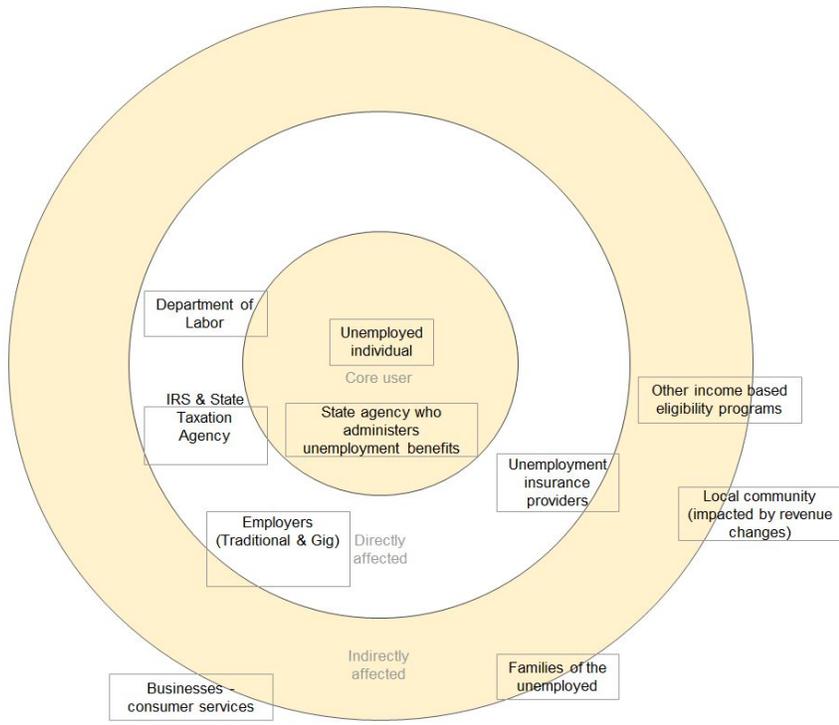
We modified the Stakeholder Map 3 times throughout the Project (Weeks 6-8, Weeks 4-5, Weeks 1-3).

Upon our initial assessment of the project, we thought that the core user undoubtedly would be the person making an unemployment insurance benefit claim and the State agency implementing the claims. Over time, however, we developed a different perspective, putting the Department of Labor and the Employment training Administration in the center.

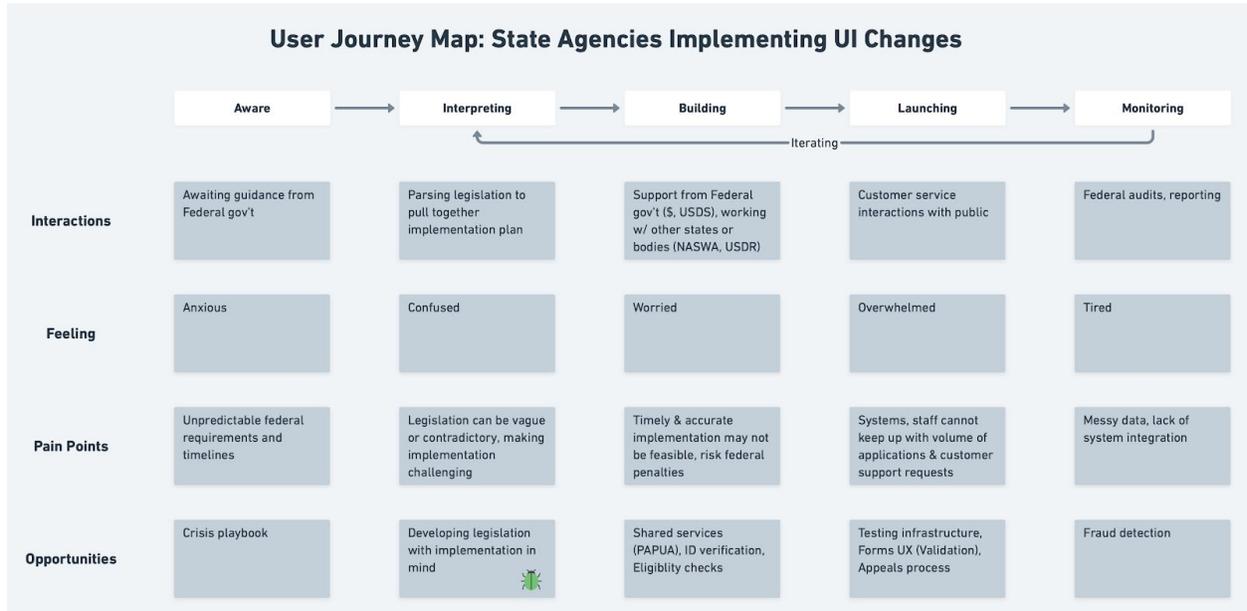
Similarly, our view on those directly affected by the “solution” changed throughout the project as we learned more about the “players” in the UI space. Most notable among the additions was NASWA due to the role they play in bringing the Federal and State governments together and taking a lead in technology innovation on behalf of the State UI programs.







APPENDIX E: User Journey Map



APPENDIX F: Service Blueprint

First Service Blueprint (Before)

	UI Applicant	UI State Agency	Appeals Board Level 1 and 2
Action	<ul style="list-style-type: none"> · Files a claim for benefits · Claimant needs to make a choice whether to appeal or whether to accept the decision · If claimant wants to appeal they need to file a claim in the required timeframe (anywhere between 5 and 30 days, depending on the state). · Claimant needs to decide whether or not they should hire an attorney or handle it on their own · Claimant needs to gather documents and potentially subpoena records or witnesses. · Claimant attends hearing · Decision may be in their favor or not. If not, they need to decide whether to go to the next level of appeals. · Appeals to second level of appeals 	<p>Reviews application</p>	<p>Appeals Board gets request for appeal and sets a hearing date</p>
Direct Impact	<ul style="list-style-type: none"> · Claimant receives decisions from agency and appeals boards. 	<ul style="list-style-type: none"> · Denies claim · Sends notification to claimant denying their claim · Agency gets notice of appeal and sends it to appeal board 	<ul style="list-style-type: none"> · Appeal Board hears claim · Appeal Board considers appeal · Appeal Board makes a decision

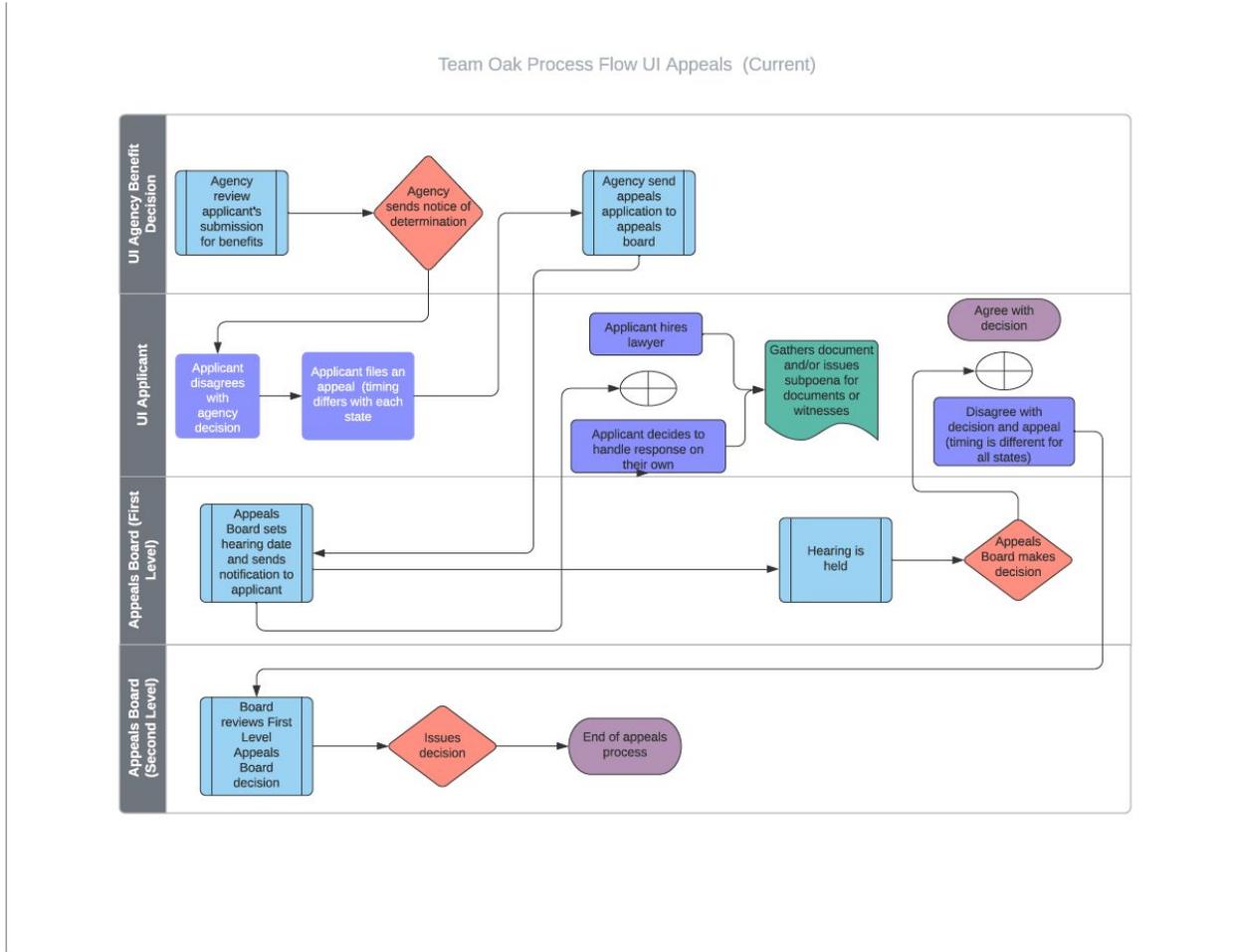
<p>Indirect Impact</p>	<ul style="list-style-type: none"> · Lengthy process that can be demoralizing for someone who truly qualifies for benefits · May ultimately get benefits even if initially denied · Takes away time from looking for job · Financial strain on applicant and those who depend on applicant for financial support 		<ul style="list-style-type: none"> · Overworked board held to tight deadlines
<p>Problem with Process</p>	<ul style="list-style-type: none"> · There appears to be a subset of reasons that applicants initially get denied because they do not fit into a standard process, but if the agency requested additional supporting documents that the applicant would submit at the time of appeals, they would have been approved in the first instance · In other words, the process does not allow for the proper submission of information at the time of the initial applicant for a subset of applicants 	<ul style="list-style-type: none"> · Denying applicants who are really eligible because the eligibility process wasn't set up for changing circumstances 	<ul style="list-style-type: none"> · Hearing cases and using resources potentially needlessly
<p>Blind spots</p>	<ul style="list-style-type: none"> · The “use cases” for why this subset of applicants are denied, but ultimately approved once they submit certain documents · The documents or information needed to satisfy the UI agency 	<ul style="list-style-type: none"> · What have State agencies already thought of this process; what have they tried; what has worked, what has failed? 	

First Service Blueprint (After)

	UI Applicant	UI State Agency	Appeals Board Level 1 and 2
Action	<ul style="list-style-type: none"> Files a claim for benefits Provides additional information requested by State Agency 	<ul style="list-style-type: none"> Reviews application Sends automated request for additional information Reviews additional information provided by applicant 	<ul style="list-style-type: none"> Appeals Board gets request for appeal and sets a hearing date
Direct Impact	<ul style="list-style-type: none"> Receives request for additional information Obtains benefits 	<ul style="list-style-type: none"> Additional workflow for already overworked agency 	<ul style="list-style-type: none"> Appeal Board hears less claims that overturn initial agency decision
Indirect Impact	<ul style="list-style-type: none"> Can concentrate on finding job and doesn't need to worry about financial difficulties 	<ul style="list-style-type: none"> More resources needed New systems needed Train personnel on new processes Update website and documentation provided to applicants 	<ul style="list-style-type: none"> Less burden on appeals system
Problem with Process	<ul style="list-style-type: none"> Need a means of submitting additional documents and information 	<ul style="list-style-type: none"> Additional workflow for already overworked agency 	
Blind spots	<ul style="list-style-type: none"> How can we implement new requirements in a way that doesn't introduce new burdens 	<ul style="list-style-type: none"> How can we implement new requirements in a way that doesn't introduce new burdens 	

APPENDIX G: Process Flow

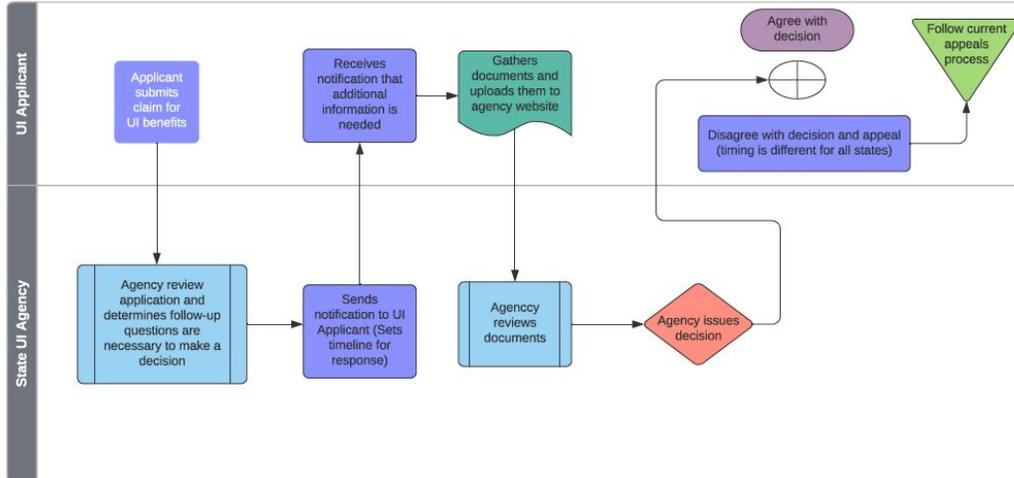
Current:



See next page for "After" Process Flow

After:

Team Oak Process Flow UI Appeals (After)



With this process, the applicants that file claims will have an opportunity to submit the documentation that they would normally submit during an appeals process at the time of the initial application so that their claim will be assessed with all available information at the time of initial filing. The goal is that applicants who do not fit into the "normal" claims process, but still have an eligible claim to benefits, will be able to obtain benefits without filing an appeal.

APPENDIX H: Extensive Timeline of US DOL ETA Program letters, UI claims; News reports; Federal & State Testimony

Date	Seasonally Adjusted <u>Initial Claims</u> for Prior Week (copied from DOL Press)	4-week moving average Copied from DOL Press Releases ⁰
1/9/2020	214,000	224,000
1/16/2020	204,000	216,250
1/23/2020	211,000	213,250
1/30/2020	216,000	214,500
2/6/2020	202,000	211,750
2/13/2020	205,000	212,000
2/20/2020	210,000	209,000
2/27/2020	219,000	209,750
3/5/2020	216,000	213,000
3/12/2020	211,000	214,000
March 12, 2020	<p><u>U.S. Department of Labor Announces New Guidance on Unemployment Insurance Flexibilities during COVID-19 Outbreak</u> Following President Donald J. Trump’s swift action to protect the American workforce from exposure to COVID-19 – also known as novel coronavirus – the U.S. Department of Labor today announced new guidance outlining flexibilities that states have in administering their unemployment insurance (UI) programs to assist Americans affected by the COVID-19 outbreak.</p>	
March 12, 2020 (See 5/15 change 1)	<p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 10-20</u> Subject: Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19) Purpose: To provide guidance to states regarding unemployment compensation (UC) flexibilities related to COVID-19.</p>	
March 18, 2020	<p>Congress passed the Families First Coronavirus Response Act (FFCRA) in response to the growing coronavirus emergency; the President signed it into law on March 18, 2020, and it became effective on April 1, 2020. The law contains several important paid leave provisions related to the pandemic.</p>	
3/19/2020	281,000	232,250
March 22, 2020 (See 5/4 change 1)	<p>ETA UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 13-20 https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634 Purpose: To provide states with instructions for implementing the Families First Coronavirus Response Act, Public Law (Pub. L.) 116-127, specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA).</p>	
3/26/2020	3,283,000	998,250
March 27, 2020	<p>Congress followed the FFCRA by passing a second bill, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which the President signed into law on March 27, 2020, effective immediately. The CARES Act included a number of additional paid leave and unemployment insurance provisions that are also reflected in this fact sheet.</p>	
4/2/2020	6,648,000	2,612,000
April 2, 2020 (See 8/6 Change 1)	<p><u>UIPL 14-20. To: State Workforce Agencies</u> From: Assistant Secretary Pallasch Subject: Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020- Summary of Key UI Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility</p>	
April 4, 2020 (See 5/9, 6/15 Changes 1 and 2)	<p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 15-20</u> Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions Purpose:</p>	

	To provide states with operating, financial, and reporting instructions for the FPUC program authorized by Section 2104, Emergency Increase in Unemployment Compensation Benefits, of the CARES Act of 2020, Public Law (Pub. L.) 116-136.	
April 5, 2020 (See Changes 1-3 on 4/27; 7/21; 8/27))	ETA: UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 16-20 https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628 Purpose: To provide states with operating, financial, and reporting instructions for the PUA program authorized by Section 2102 of the CARES Act of 2020, Public Law (Pub. L.) 116-136.	
April 6, 2020	Reaction to Program Letter above 16-20. Note: It was thereafter changed three times. Instructions from the Labor Department on how to pay emergency unemployment benefits to gig workers sidelined by the coronavirus pandemic prompted protest Monday from Sen. Ron Wyden (D.-Ore.) and AFL-CIO President Richard Trumka. The DOL guidance , issued this past weekend, implements the Pandemic Unemployment Assistance program, which was created in last month's blizzard of emergency coronavirus legislation. PUA extends unemployment payments to gig workers and others who ordinarily would be ineligible for unemployment insurance. https://www.politico.com/news/2020/04/06/narrow-guidance-coronavirus-benefits-workers-protest-170296	
4/9/2020	6,600,000	4,265,500
April 9, 2020	The U.S. Department of Labor today announced the publication of Unemployment Insurance Program Letter 14-20 (UIPL) outlining relevant provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act related to the administration of and eligibility criteria for state unemployment insurance (UI) programs, including Pandemic Unemployment Assistance (PUA) for those not typically eligible for UI, such as gig workers, and expanded UI benefits	
April 10, 2020 (See 5/13 change 1)	UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 17-20 Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020-Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions Purpose: To provide states with operating, financial, and reporting instructions for the PEUC program authorized by Section 2107 of the CARES Act of 2020, Public Law (Pub. L.) 116-136.	
April 15, 2020	Gig workers struggle to claim unemployment relief Weeks after Congress designated benefits for contractors, states are still lagging on doling out aid. Illinois Governor Pritzker: https://www.politico.com/news/2020/04/15/workers-struggle-to-claim-unemployment-relief-188814 "After Congress passed the CARES Act, the U.S. Department of Labor attempted to limit this program by creating real regulatory obstacles for implementing it," Pritzker said Monday. "It has taken U.S. Department of Labor weeks to issue guidance to the states. And they've promulgated confusing and very stringent regulations that attempt to severely limit who can actually qualify."Despite the labyrinthian regulations," the Illinois governor said, his state's payments to independent contractors should go out within a month. But despite calls for the DOL to clarify its instructions on matters such as how the new benefits apply to app-based workers, senior department officials say the guidance documents the department has issued over the past few weeks are sufficient to allow states to administer the benefits."	
4/16/2020	5,245,000	5,508,500
April 17, 2020	Who's Eligible? https://news.bloomberglaw.com/daily-labor-report/4-reasons-states-are-slow-to-pay-covid-19-unemployment-benefits It is not just the computer systems that aren't sure who's eligible for the new assistance. <ul style="list-style-type: none"> • The question is especially complicated in states like California and New Jersey, where officials say many gig workers should be treated as employees. • State agencies have complained of complex and confusing guidance from the federal Labor Department. Officials have said they aren't clear on whether workers need to first apply for regular unemployment benefits and be denied before they can claim pandemic unemployment assistance. • There's concern that if states misread the guidance and give benefits to ineligible workers, the federal agency could later deny funding for those claims. 	

<p>April 20, 2020</p>	<p>https://www.law360.com/transportation/articles/1265413/dol-says-idled-gig-workers-can-collect-unemployment The <u>U.S. Department of Labor</u> has clarified guidance on the recent emergency unemployment expansion after Democratic lawmakers criticized its advice to state benefits administrators, saying app-based drivers and other “gig workers” whose work has slowed due to COVID-19 can collect.</p> <p>Independent contractors who experience “a significant diminution of work as a direct result of COVID-19” can collect benefits under the Pandemic Unemployment Assistance program even if they have some work, DOL congressional liaison J. Joseph Wheeler said Friday in a letter to the lawmakers. Wheeler also said workers who can’t work because they have coronavirus symptoms and are seeking a diagnosis can collect, among other things.</p> <p>Wheeler responded to Senate Finance Committee Ron Wyden, D-Ore., and other Democrats who had questioned early April guidance to state unemployment administrators. He framed the agency’s body of guidance as a work-in-progress Friday. “The department welcomes another opportunity to provide insight into previous, current, and ongoing work on this front,” Wheeler wrote.</p> <p>Wyden, Senate Minority Leader Chuck Schumer, D-N.Y., and 32 other Democrats wrote the DOL last week to raise concerns that “narrow and ambiguous” language in the unemployment letter could lead states to deny benefits to contractors and other workers Congress meant for the law to protect.</p> <p>For example, the DOL in one hypothetical said a worker who has to quit their job because they have “tested positive for the coronavirus or [have] been diagnosed” could collect. That does not “make crystal clear” that a worker doesn’t have to have a positive test to be considered diagnosed under the law, as Congress intended, the lawmakers said.</p> <p>The DOL did not mean for this and other examples to be a comprehensive list of eligibility triggers under a provision of the law providing benefits to workers who are diagnosed with COVID-19 or “experiencing symptoms ... and seeking a medical diagnosis,” Wheeler said Friday. Along those lines, quitting because of a positive test or diagnosis is not the only way to become eligible under language providing benefits to workers who are “unemployed, partially unemployed, or unable or unavailable for work” because of the pandemic, Wheeler said.</p> <p>The lawmakers also criticized an example in which the DOL said a nonemployee ride-hailing driver may not be able to collect unless “he or she has been forced to suspend operations” because of COVID-19, including because of a government order. That interpretation leaves out drivers who “have seen demand for their services dry up” because of the virus, they said.</p> <p>That section “established additional criteria to cover gig workers” but did not disrupt prior guidance that drivers are eligible if they’re “partially employed” because of the virus, Wheeler said, citing an unemployment FAQ on the DOL’s website.</p> <p>Wheeler said the DOL will soon issue more guidance, including answers to common state questions about the April 5 letters. Senior officials will hold a webinar with state agencies on Wednesday, he added.</p>	
<p>4/23/2020</p>	<p>4,427,000</p>	<p>5,786,500</p>
<p>April 23, 2020</p>	<p>Q & A with New Jersey Commissioner of DOL, Robert Asaro-Angelo: https://www.roi-nj.com/2020/04/23/industry/nj-labor-commissioner-answers-questions-from-owners-independent-contractors/ https://www.roi-nj.com/2020/04/23/industry/nj-labor-commissioner-answers-questions-from-workers-filing/ https://www.roi-nj.com/2020/04/23/industry/we-asked-njs-labor-commissioner-50-questions-on-unemployment-benefits/ /</p> <p>Q: Will the process be quick and easy?</p> <p>RAA: Unfortunately, no. <u>There are new sets of rules for the pandemic unemployment assistance, which aren’t even up yet.</u> But, let’s be very clear: We want to get the money out as soon as possible. This is 100% fully federally funded. So, it is in our best interests of the state and our unemployment trust fund, which every employer in the state and every employee pays into, to have as many people claiming pandemic unemployment assistance as possible. It’s just going to take a little time to go through that process because of the way it was written.</p>	

April 23, 2020	<p><u>In Letter to Senators, DOL Clarifies Scope of the CARES Act's Pandemic Unemployment Assistance Program</u> Includes <u>letter from US DOL</u> responding to 4/17 letter from Sen. Wyden. The letter ends by alluding to upcoming guidance that the DOL is planning to issue to answer common state questions, as well as a webinar the DOL is hosting for state agencies.</p>	
April 27, 2020 (See Changes 2-3) (See 8/12 Change 1)	<p>ETA: UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 16-20, Change 1. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899 As States have gained experience administering the PUA program under the CARES Act, they have identified questions about aspects of the program's operation. The purpose of this UIPL is to address those questions and provide further guidance about the PUA program authorized by section 2102 of the CARES Act of 2020, Public Law (Pub. L.) 116-136 and to provide instructions for completing Form ETA 9178-P, Quarterly Narrative Progress Report - Employment and Training Supplemental Budget Request Activities. <u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 18-20</u> Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes Purpose: To provide states with instructions for implementing the emergency unemployment relief for state and local governmental entities, certain nonprofit organizations, and Federally-recognized Indian Tribes in Section 2103 of the CARES Act of 2020, Public Law (Pub. L.) 116-136.</p>	
April 29, 2020	<p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 19-20</u> Subject: Procedures for the Completion and Publication of Unemployment Insurance (UI) Benefit Accuracy Measurement (BAM) Data for Improper Payment Information Act (IPIA) Reporting Year 2020 Purpose: To provide State Workforce Agencies (SWAs) guidelines and key dates for the completion of the 2020 UI BAM paid and denied claims sample cases and the publication of 2020 BAM data.</p>	
4/30/2020	3,839,000	5,033,250
April 30, 2020	<p>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 20-20 https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6324 Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Operating, Financial, and Reporting Instructions for Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week Purpose: To provide states with operating, financial, and reporting instructions for the full federal funding of the first week of unemployment compensation (UC) authorized by section 2105, Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week, of the CARES Act of 2020, Public Law (Pub. L.) 116-136.</p>	
May 3, 2020	<p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 21-20</u> Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments. Purpose: To provide states with an overview of STC program provisions in Title II, Subtitle A of the CARES Act, Public Law (Pub. L.) 116-136, and to provide guidance regarding 100 percent federal reimbursement of certain state STC payments</p>	

May 14, 2020	<u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 24-20</u> Subject: Temporary Changes to the Federal-State Extended Benefits (EB) Program in Response to the Economic Impacts of the Coronavirus Disease 2019 (COVID-19) Pandemic Emergency Purpose: To provide guidance and respond to state inquiries related to the Federal-State EB program and temporary changes to the program in accordance with the Families First Coronavirus Response Act, specifically Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), Public Law (Pub. L.) 116-127, and the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) (Pub. L. 116-136).	
May 15, 2020 (Change 1)	<u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 10-20, Change 1 (May 15, 2020)</u> Status: Active Subject: Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19) - Interpretation of "Between and Within Terms" Denial Provisions in Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA)	
May 19, 2020	<u>U.S. Department of Labor Offers Fraud Prevention Resources To Enhance Integrity of Unemployment Insurance Programs</u> The U.S. Department of Labor today has released updated resources for employers, employees, and states to prevent fraud or misuse in the unemployment insurance system, including the new unemployment insurance programs under the Coronavirus Aid, Relief and Economic Security (CARES) Act.	
5/21/2020	2,438,000	3,042,000
May 26, 2020 (Office of Inspector General - OIG)	ELLIOT P. LEWIS Assistant Inspector General Office of Audit https://www.morganlewis.com/-/media/files/document/2020/covid-19/Alert-Memorandum_26may20.pdf SUBJECT: Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud Report Number: 19-20-002-03-315 The purpose of this memorandum is to alert you to a concern we identified during our ongoing audit of the Department of Labor's (DOL) response to the Unemployment Insurance (UI) Program's expansion under the CARES Act.	
May 27, 2020	https://baltimore.cbslocal.com/2020/05/27/coronavirus-unemployment-hogan-press-conference-latest/ Maryland Governor Hogan acknowledged the state's implementation of its new one-stop online filing application was rocky but said most of the issues have since been resolved. He also added the state has hired 250 new people to process claims and added 450 additional phone lines for those trying to get help. <u>The technical issues alone weren't the major issue, he said. "They've changed guidelines at the federal level 12 times since the program came out a few weeks ago," Hogan said, adding the federal requirement that people have to re-file each week has led to "tremendous difficulties."</u>	
5/28/2020	2,123,000	2,608,000
6/4/2020	1,877,000	2,284,000
June 5, 2020 (DOL response to OIG)	https://www.morganlewis.com/-/media/files/document/2020/covid-19/Response-to-Office-of-Inspector-Generals-Alert-Memorandum.pdf Response to OIG Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report Number: 19-20-002-03-315	
6/11/2020	1,542,000	2,002,000
June 9, 2020	<u>Testimony of US DOL Secretary: STATEMENT OF EUGENE SCALIA SECRETARY UNITED STATES DEPARTMENT OF LABOR BEFORE THE COMMITTEE ON FINANCE UNITED STATES SENATE JUNE 9, 2020</u> See Footnote for testimony highlights noted by Secretary Scalia of US DOL outreach and guidance	

June 15, 2020 (Change 2)	<p>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 15-20, Change 2 (June 15, 2020)</p> <p>Status: Active</p> <p>Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020-New Data Collection Instrument and Revised Reporting Instructions for Federal Pandemic Unemployment Compensation (FPUC)</p> <p>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 25-20</p> <p>Subject: Benefit Accuracy Measurement (BAM) Program Operations in Response to the Coronavirus Disease of 2019 (COVID-19) Pandemic</p> <p>Purpose: The purpose of this Unemployment Insurance Program Letter (UIPL) is to provide guidance to State Workforce Agencies on changes in the operation of the BAM program, including BAM sample selection and case management applications, as a result of issues arising from the COVID-19 pandemic. These COVID-19-related issues include the unprecedented increases in Unemployment Insurance (UI) program workloads and the new Unemployment Compensation (UC) programs created in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136), including the Federal Pandemic Unemployment Compensation (FPUC) program, which provides a federal payment of \$600 in addition to the state Weekly Benefit Amount (WBA).</p>	
6/18/2020	1,508,000	1,773,500
6/25/2020	1,480,000	1,620,750
June 25, 2020	<p>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 26-20</p> <p>Subject: Minimum Disaster Unemployment Assistance (DUA) Weekly Benefit Amount: July 1 - September 30, 2020</p> <p>Purpose: To transmit the subject computation for State Workforce Agency usage in computing minimum weekly DUA amounts for all major disasters declared from July 1 - September 30, 2020, (fourth quarter of Fiscal Year (FY) 2020).</p>	
7/2/2020	1,427,000	1,503,750
7/9/2020	1,314,000	1,437,250
7/16/2020	1,300,000	1,375,000
July 16, 2020 (Change 1)	<p>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 11-18, Change 1 (July 16, 2020)</p> <p>Status: Active</p> <p>Subject: Employment and Training Administration (ETA) 9177 Report - Pre-Implementation Planning Checklist Report for State Unemployment Insurance (UI) Information Technology (IT) Modernization Projects – Additional Updates to the ETA 9177 Report and Reporting Instructions</p>	
July 21, 2020 (Change 2)	<p>ETA UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 16-20, Change 2. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5479</p> <p>Purpose: As states have gained experience administering the PUA program under the CARES Act, Public Law (Pub. L. 116-136), they have identified additional questions about program operations. The purpose of this Unemployment Insurance Program Letter (UIPL) is to address those questions concerning the PUA program.</p>	
July 21, 2020	<p>DOL Tries to Clear Up Confusion on Jobless Aid for Self-Employed</p> <p>The U.S. Labor Department issued new guidance on the complex unemployment insurance program for independent contractors, marking the agency's latest effort to increase oversight of how states are making eligibility determinations to this crucial form of virus relief.</p> <p>The <u>guidance</u> (16-20 change) DOL's Employment and Training Administration published late Tuesday updated its instructions to state workforce agencies by addressing a series of questions states have asked about Pandemic Unemployment Assistance. Congress created the program in March to extend benefits to gig-economy workers, freelancers, and others who wouldn't traditionally qualify for unemployment insurance.</p>	
7/23/2020	1,416,000	1,360,250
7/30/2020	1,434,000	1,368,500

August 6, 2020 National Governor's Association (NGA)Memo	<p><u>To: Governors' Offices and State Workforce System Leaders</u> Re: Unemployment Insurance During COVID-19 Date: August 6, 2020</p> <p>CURRENT STATUS The issuance of additional guidance from the U.S. Department of Labor to implement unemployment insurance provisions of the Coronavirus Aid, Relief, and Economic Security Act (CARES, P.L. 116-136) is imminent. This document will be updated as guidance is issued. This memo describes:</p> <ul style="list-style-type: none"> • What current unemployment assistance flexibilities exist under the CARES Act; • What states are doing to increase UI staffing and system capacity; • What governors are doing to further improve access to UI; and • What governors can do to communicate UI challenges and opportunities to the public, to help reduce public uncertainty that further overwhelms the UI system. 	
8/6/2020	1,186,000	1,337,750
August 12, 2020 (Change 1) (Change 1) (See 8/17 Change 1)	<p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 18-20, Change 1 (August 12, 2020)</u> Status: Active Subject: Amendments to the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes</p> <p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 14-20, Change 1 (August 12, 2020)</u> Status: Active Subject: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Questions and Answers</p> <p><u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 27-20</u> Subject: Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (COVID-19)-Unemployment Insurance (UI)-Related Technical Assistance for States Administering Lost Wages Assistance (LWA) Purpose: To provide states with Unemployment Insurance (UI)-related technical assistance for administering LWA provided under Section 408(e)(2) in the Robert T. Stafford Disaster Relief and Emergency Assistance (Stafford) Act (42 U.S.C. 5174(e)(2)), as authorized by the Presidential Memorandum, <i>Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019</i>, issued on August 8, 2020.</p>	
8/13/2020	963,000	1,252,750
August 13, 2020	<p><u>New York State DOL Commissioner Testimony before NYS Legislature detailing actions taken</u> (see footnote below key actions taken)</p> <p>*Since the COVID-19 pandemic began in early March, the NYS Department of Labor has almost \$40 billion in unemployment benefits to more than 3.3 million New Yorkers in just over four months – In 2019, we paid just \$2.1 billion in total.</p> <p>*Paid over 18 years' worth of benefits in just over five months. Before this pandemic, the highest number of new unemployment claims in one week, nationally, was 695,000 in October 1982. During the height of this crisis, we saw one week with 6.8 million new claims</p> <p>*In a typical week before the crisis, our call center averaged about 50,000 calls ... but during a peak week in late March, our call center received over 8.2 million phone calls — that's an increase of 16,000%.</p> <p>*And our website, which typically received 350,000 hits during the course of a week, received over 6 million visits one week — an increase of 1,600%.</p>	
August 17, 2020 (Change 1)	<p>U.S. Department of Labor Issues Additional Guidance for States on Lost Wages Assistance Program <u>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 27-20, Change 1 (August 17, 2020)</u> Status: Active Subject: Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (COVID-19)--Unemployment Insurance (UI) Related Technical Assistance for States Administering Lost Wages Assistance (LWA) Questions and Answers</p>	
8/20/2020	1,106,000	1,175,750
8/27/2020	1,006,000	1,068,000

<p>August 27, 2020</p> <p>(Change 3)</p>	<p>ETA: UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 16-20, Change 3 https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3849</p> <p>Purpose: States have gained experience administering the PUA program under the CARES Act, Public Law (Pub. L. 116-136), and have identified additional questions about the PUA eligibility of individuals who are caregivers and affected by school systems reopening. The purpose of this Unemployment Insurance Program Letter (UIPL) is to address those questions concerning the PUA program.</p>	
<p>August 31, 2020</p>	<p>ETA UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 28-20 https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8044</p> <p>Subject: Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs</p> <p>Purpose: To remind states of their roles and responsibilities in addressing fraud in the UI system and the techniques and strategies available to assist states with their fraud management operations; and to provide states with funding to assist with efforts to prevent and detect fraud and identity theft and recover fraud overpayments in the PUA and PEUC programs using many of the tools and resources already available to states as discussed below.</p>	
<p>September 1, 2020</p>	<p><u>U.S. Department of Labor Provides \$100 Million to States To Combat Unemployment Insurance Fraud</u> The U.S. Department of Labor today announced \$100 million in funding to support state efforts to combat fraud and recover improper payments in the Unemployment Insurance (UI) program, including those programs created under the Coronavirus Aid, Relief and Economic Security (CARES) Act.</p>	
<p>9/3/2020</p>	<p>881,000</p>	<p>991,750</p>
<p>9/10/2020</p>	<p>884,000</p>	<p>970,750</p>
<p>September 14, 2020</p>	<p>https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7540</p> <p>UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 29-20</p> <p>Subject: Additional Planning Guidance for the Fiscal Year (FY) 2021 Unemployment Insurance (UI) State Quality Service Plan (SQSP)</p> <p>Purpose: To initiate the SQSP process, provide supplemental instructions, and define additional requirements for the FY 2021 SQSP.</p>	

APPENDIX I: Background research and links to other resources

I. **Background Info**

1. <https://www.employmentlawfirms.com/resources/denied-unemployment-benefits-how-to-appeal.html>
2. NCSL: National Conference of State Legislatures: COVID-19: Unemployment Benefits Overview 7/16/2020 [COVID-19: Unemployment Benefits](#)
3. DOL Office of Inspector General (OIG) is issuing this Alert Memorandum because states need to implement measures, such as requiring claimants to document earnings to substantiate the initial WBA determination, to establish and maintain integrity in the PUA program.
https://www.morganlewis.com/-/media/files/document/2020/covid-19/Alert-Memorandum_26may20.pdf
4. GAO-20-625, COVID-19: Opportunities to Improve Federal Response and Recovery Efforts: <https://www.gao.gov/assets/710/707839.pdf>
5. Mathematica Policy Research: Summary of Literature Review: Challenges and Strategies Used to Operate Unemployment Insurance Programs During the Great Recession July 2018,
<https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/UI-Lit-Review-State-Operations.pdf>
6. Testimony of US DOL Secretary to US Senate Finance on June 9, 2020. Notes how many guidelines have been issued re: CARES Act. Goes to our question, very complex for States.
<https://www.finance.senate.gov/imo/media/doc/09JUN2020SCALIASTMNT.pdf>
7. National Governors Association (NGA) <https://www.nga.org/coronavirus-resources/#UI>
See all categories including scroll down to Unemployment Insurance where it speaks to streamlining processes.
8. National Governors Association (NGA): M E M O R A N D U M To: Governors' Offices and State Workforce System Leaders Re: Unemployment Insurance During COVID-19 Date: August 6, 2020. This memo describes:
 - What current unemployment assistance flexibilities exist under the CARES Act;
 - What states are doing to increase UI staffing and system capacity;
 - What governors are doing to further improve access to UI; and
 - What governors can do to communicate UI challenges and opportunities to the public, to help reduce public uncertainty that further overwhelms the UI system.<https://www.nga.org/wp-content/uploads/2020/04/Summary-of-Unemployment-Insurance-under-COVID-FINAL.pdf>
9. Policy Basics: Unemployment Insurance [Policy Basics: Unemployment Insurance Obama Budget Modernizes Policies for Unemployed Workers](#)
10. [How does unemployment insurance work? And how is it changing during the coronavirus pandemic?](#) Also speaks to State Uninsurance Fund Reserves and impact. While state spending on UI is not subject to balanced budget rules and states can borrow from the

Treasury if they exhaust their reserves, they have to repay the federal government within two to three years, or federal taxes on employers automatically increase until the debt is paid.

11. Senator Warner Urges Dept. of Labor to Issue Guidance on Unemployment Benefits for Gig Workers: (Includes statement: The Department of Labor should be taking the lead on innovative technological solutions that relieve the burden on states to recreate the wheel on their own. As others have noted, vendors with cloud-based solutions for PUA processing could streamline the process for state unemployment agencies.)
<https://www.warner.senate.gov/public/index.cfm/2020/4/warner-urges-dept-of-labor-to-issue-guidance-on-unemployment-benefits-for-gig-workers>
12. Government Accountability Office, May 2016: UNEMPLOYMENT INSURANCE, States' Customer Service Challenges and DOL's Related Assistance
<https://www.gao.gov/assets/680/677082.pdf>
13. Economic Policy Institute:
<https://www.epi.org/blog/updated-state-unemployment-data-congress-has-failed-to-act-as-jobless-claims-remain-high-and-workers-scrape-by-on-inadequate-unemployment-benefits/>
<https://www.epi.org/blog/the-obama-administration-pushes-for-better-response-to-unemployment/>
14. Coronavirus and Unemployment Benefits: 50-State Resources:
<https://www.justia.com/covid-19/50-state-covid-19-resources/coronavirus-and-unemployment-benefits-50-state-resources/>
15. US DOL Employment & Training Administration(ETA). Numerous letters of guidance and new guidance and Q's and A's. Adds to uncertainty of states regarding guidelines.
16. <https://www.bls.gov/opub/mlr/2017/article/changes-in-federal-and-state-unemployment-insurance-legislation-in-2016.htm> (and ability to search other years)
17. <https://www.usdigitalresponse.org/wp-content/uploads/2020/07/Unemployment-Insurance-Case-Study-.pdf> - this is an informative read on how the CARES Act impacted state UI systems. key findings on pg 3 and 25 highlights eligibility verification (which includes identity verification) is one of the main sources of delay/problems for state UI systems. seems at least some states have instituted employer initiated UI benefits. (see bolded bullet on pg 11.)
18. ADP Research <https://adpemploymentreport.com/>
19. UI Workflow: US Digital Response Case Study [State] Department of Labor and the CARES Act Discovery Findings:
<https://www.usdigitalresponse.org/wp-content/uploads/2020/07/Unemployment-Insurance-Case-Study-.pdf>
20. NYS DOL Commissioner Testimony before NYS Legislature on steps taken to ease burden and hasten UI payments:
<https://www.nysenate.gov/sites/default/files/nysdolreardontestimony.pdf>
21. NYS PEF Union President Testimony before NYS Legislature outlining key issues to workforce:
https://www.nysenate.gov/sites/default/files/nys_pef_testimony_regrading_impact_of_covid-19_from_a_worker_perspective.pdf

22. Full Committee Hearing Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic Date: Tuesday, June 9, 2020. US Senate Committee on Finance.
<https://www.finance.senate.gov/hearings/unemployment-insurance-during-covid-19-the-care-act-and-the-role-of-unemployment-insurance-during-the-pandemic>
23. Testimony before US Senate Finance Committee, June 9, 2020, Michele Evermore, Senior Researcher and Policy Analyst National Employment Law Project
<https://www.finance.senate.gov/imo/media/doc/09JUN2020EVERMORESTMNT.pdf>
24. 2016 Pennsylvania REQUEST FOR PROPOSALS FOR DEPARTMENT OF LABOR & INDUSTRY Unemployment Compensation Benefits Modernization (UC Ben Mod) UC Benefits Modernization RFP Draft_v3 - PA - eMarketplace Highlights complexity
25. The Center on Budget and Policy Priorities (CBPP) States Grappling With Hit to Tax Collections, 8/24/20.
<https://www.cbpp.org/research/state-budget-and-tax/states-grappling-with-hit-to-tax-collections>
26. 2013 GAO: UNEMPLOYMENT INSURANCE INFORMATION TECHNOLOGY States Face Challenges in Modernization Efforts
<https://www.gao.gov/assets/660/657735.pdf>
27. 2012 REQUEST FOR INFORMATION (RFI) BY THE STATE OF TENNESSEE Department of Labor and Workforce Development
http://bids.centerdigitalgov.com/docs/2012/12/RFI_Document__631159029.pdf?id=75755. Highlights complexity
28. https://oui.doleta.gov/unemploy/docs/CoffeyConsulting_UI_Call_Center_Study_Final_Report_January272017acc.pdf
29. 2010 A National View of UI IT Systems: National Association of State Workforce Agencies. https://www.naswa.org/system/files/document/a_national_view_of_ui_it_systems.pdf
30. US DOL (Dept of Labor) Unemployment Insurance Relief During COVID-19 Outbreak
<https://www.dol.gov/coronavirus/unemployment-insurance>
31. Toolkit: <https://unemployment.usdigitalresponse.org/>
32. https://oui.doleta.gov/unemploy/docs/ui_directors_Mar2020.pdf
33. DOL Proposed Rule Change: Independent contractor:
<https://www.reginfo.gov/public/do/eAgendaViewRule?publd=202004&RIN=1235-AA34>
34. Infographic of UI Progression US DOL:
https://oui.doleta.gov/unemploy/pdf/CARES_Act_Programs.pdf
35. [DOL Aims to Fast-Track Worker Classification Rule to 2020 Finish](#) DOL Aims to Fast-Track Worker Classification Rule to 2020 Finish. The administration wants to wrap up the rulemaking in the final months of President Donald Trump's term in part because a Democrat could be president next year, said the sources, who spoke on condition of anonymity. If a worker classification rule were to be proposed but not finalized and Trump doesn't get re-elected, a new administration would easily be able to kill the effort. Or new DOL leaders inheriting the incomplete rule could finalize it by interpreting the term "employee" much more broadly than Republican regulators

envisioned. <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202004&RIN=1235-AA34>

36. <https://oui.doleta.gov/unemploy/claims.asp>
37. <https://www.americanprogress.org/issues/economy/news/2020/04/27/484061/oversight-implementation-will-determine-effectiveness-new-laws-responding-coronavirus/>
38. https://flauditor.gov/pages/pdf_files/2019-183.pdf Another team shared in Slack noting: Skimming it, this seems to be a good resource for stakeholder and journey mapping. https://flauditor.gov/pages/pdf_files/2019-183.pdf March 2019 results of a state-sponsored audit of Florida's unemployment system which gets into detail about the application flow and enumerates 17 failure points in detail. Finding # 1 calls out a lack of design documentation on the system, # 2 related to SSNs and identity fraud, and # 3 talks about PW complexity standards.
39. Process Flows: Recommended Operating Procedures For Cross-Matching Activity: National and State Directories of New Hires
<https://wdr.doleta.gov/directives/attach/UIPL/UIPL19-11ATT.pdf>
40. Oregon Unemployment Insurance Appeals Process:
<https://www.oregon.gov/employ/Documents/Appeals%20Process%20Flow%20Chart.pdf>
41. Report from the Century Foundation on modernizing UI technology:
<https://tcf.org/content/report/centering-workers-how-to-modernize-unemployment-insurance-technology/>

II. **News Reports**

1. USDigital Service:
<https://beeckcenter.georgetown.edu/wp-content/uploads/2020/07/SSN-Report-V4.pdf>
Case Study: State of New Jersey Enables SNAP Document Upload Capacity
Problem: SNAP benefits applicants must submit documents that verify their identity and income. In the state of New Jersey, eligibility workers typically saw these documents during in-person interviews, which were required pre-COVID-19. Under modified regulation due to the pandemic, viewing documents in person was no longer an option, yet increased SNAP demand made processing by mail a lengthy process. New Jersey needed a fast approach that let applicants upload document files, which could then be received and viewed securely by county eligibility workers.
Who was involved: New Jersey state government appointees and employees, including its Chief Innovation Officer, Chief Technology Officer, staff from the Office of Innovation, and leaders from the Department of Human Services, in partnership with volunteers from U.S. Digital Response (USDR), including a subject-matter expert, an engineer, a UX designer, and a product manager.
2. <https://18f.gsa.gov/2020/05/12/rapid-implementation-of-policy-as-code/> Rapid implementation of policy as code. Prototyping SNAP eligibility.
3. [4 Reasons States Are Slow to Pay Covid-19 Unemployment Benefits](#)
4. <https://news.bloomberglaw.com/daily-labor-report/dol-urged-to-clarify-when-work-refusal-warrants-jobless-aid-cut>

5. Unemployment Money Not Reaching Millions Of People Who Applied Unemployment insurance payments slow in coming. It took the federal government until last week to send states final information. And states have had to integrate those extra payments into their often antiquated unemployment systems. And documentation is also an issue.
6. RAND Corporation: 38 Million Have Applied for Unemployment—but How Many Have Received Benefits?
<https://www.rand.org/blog/2020/05/38-million-have-applied-for-unemployment-but-how-many.html>
7. States Made It Harder to Get Jobless Benefits. Now That's Hard to Undo. [NY Times]
8. Unemployed workers turn to each other for help getting through complex, crashed filing systems [CNBC]
9. Google creates online unemployment application with state of New York Google helps New York to speed payments
10. NYS DOL Announces Partnerships To Boost Tech Capacity NY Gov. Cuomo Press Release Facing Unprecedented Spike in COVID-19 Related Unemployment Insurance Applications, NYS Department Of Labor Announces Partnerships To Boost Tech Capacity and Make It Easier for New Yorkers To File “Tech Surge” includes Critical Upgrades from Google, Deloitte, and Verizon
11. April article citing issues in NY which prompted Gov. Cuomo to address issue: They Filed for Unemployment Last Month. They Haven't Seen a Dime. [NY Times]
12. <https://www.fedscoop.com/usds-digital-services-coronavirus-projects/>
13. States Made It Harder to Get Jobless Benefits. Now That's Hard to Undo. Systems that were devised to treat each case as potentially fraudulent are now rushing to deal with millions of newly unemployed people. Includes map visualizations.
<https://www.nytimes.com/2020/04/30/upshot/unemployment-state-restrictions-pandemic.html>
14. August 29th, 2020: Getting To The Bottom Of Oregon's Unemployment Delays.
<https://www.opb.org/news/article/qa-getting-to-the-bottom-of-oregons-unemployment-delays/>
15. Collaboration on Unemployment Systems Creates Efficiencies, Cost Savings: Unemployment consortiums among like-minded and like-sized states join forces to modernize old-fashioned gov tech. Have not seen evaluations or status.
<https://www.govtech.com/policy/Collaboration-on-Unemployment-Systems-Creates-Efficiencies-Cost-Savings.html>
16. <https://medium.com/u-s-digital-response/thomas-kalil-interviews-reshma-khilnani-on-unemployment-insurance-modernization-cb398788f161>
17. <https://www.roi-nj.com/2020/04/23/industry/we-asked-njs-labor-commissioner-50-questions-on-unemployment-benefits/>
18. <https://www.politico.com/news/2020/04/15/workers-struggle-to-claim-unemployment-relief-188814> One reason for the delay is that the Department of Labor didn't put out its first set of guidelines for the new program until April 5, more than a week after the stimulus passed, leaving state unemployment offices stalled. “Despite the labyrinthian regulations,” the Illinois governor said, his state's payments to independent contractors should go out within a month. But despite calls for the DOL to clarify its instructions on

matters such as how the new benefits apply to app-based workers, senior department officials say the guidance documents the department has issued over the past few weeks are sufficient to allow states to administer the benefits.

19. Maryland Governor Hogan acknowledged the state's implementation of its new one-stop online filing application was rocky but said most of the issues have since been resolved. He also added the state has hired 250 new people to process claims and added 450 additional phone lines for those trying to get help.

The technical issues alone weren't the major issue, he said. "They've changed guidelines at the federal level 12 times since the program came out a few weeks ago," Hogan said, adding the federal requirement that people have to re-file each week has led to "tremendous difficulties."

<https://baltimore.cbslocal.com/2020/05/27/coronavirus-unemployment-hogan-press-conference-latest/>

20. <https://www.cnbc.com/2020/04/01/unemployment-for-gig-self-employed-workers-mired-in-confusion-delays.html>

21. <https://www.dol.gov/newsroom/releases?agency=39&state=All&topic=132&year=2020&page=1>

22. Sept. 11, 2020: New York Times: PUA and Fraud:

<https://www.nytimes.com/2020/09/11/business/economy/pandemic-unemployment-assistance-fraud.html?action=click&module=Top%20Stories&pgtype=Homepage> "It's a perfect storm," said Stephen A. Wandner, a former top Labor Department official who is now a senior fellow at the National Academy of Social Insurance. "You've got insane numbers of applications compared to what the states are used to and inadequate numbers of staff to process and adjudicate claims."

- a. Pandemic Unemployment Assistance aims to capture those lacking a path into traditional state benefits and accounts for the pandemic's particular disruptions. Pandemic Unemployment Assistance is meant to provide benefits to the self-employed, independent contractors, gig workers, part-timers and others ordinarily ineligible for state unemployment insurance. Set up to last through the end of the year, it was a major element of the CARES Act.
- b. Fraud is not uncommon in hastily assembled disaster programs, including the Paycheck Protection Program, the component of the CARES Act that provided forgivable loans to small businesses to help weather the pandemic without layoffs.
 - i. But signs of trouble with the Pandemic Unemployment Assistance program have surfaced for months as people who did not file claims — including the governor of Arkansas — found benefits issued in their names. A growing number of states have signaled that the problems with the program go beyond the routine.
 - ii. California has warned that it is cutting off recipients when it detects irregularities, like mailings stacking up at a given address. "These situations are believed to be fraud, and scammers will often try to intercept, redirect, or gather mail associated with these claims," the state's employment agency wrote.

- iii. Colorado said Thursday that in a six-week stretch this summer, 77 percent of new claims under the program were not legitimate.

III. Why Payments are Slow

1. From Disrepair to Transformation: How to Revive Unemployment Insurance Information Technology and Infrastructure
 - Congressional Testimony, talks about administrative federal funding for UI, state systems and modernization efforts
 - “Revenues generated from the Federal Unemployment Tax Act (FUTA) primarily fund the administration of the state UI programs”
 - Recommendations:
 - Federal Commission on Modernization of Federally Funded Benefit Programs, including investigation of federalizing some services and infrastructure
 - ...address long backlogs in a claimant-friendly manner is to set up callback systems and establish online chat technology to answer basic questions and help people avoid common mistakes.
 - 24-7 access to online and mobile services, which not all states provide
 - unemployment websites and applications must be mobile-responsive
 - As is true for other government IT systems, states should update their password reset protocols. In some states, workers must be mailed a new password; in others, staff cannot process claims because they are busy answering phone calls about password resets. Technology exists for states to implement secure password reset protocols that do not require action by the agency, which saves time for everyone.
2. US Unemployment Benefits: Millions Still Waiting for State Help
3. Mass. Unemployment Rate Rises To 17.4%, Worst In The Country
4. State Unemployment Agencies Could Take Months To Adapt To WH Proposal, Memos Show
5. Unemployment payment delays still plague state agencies and workers say they are pushed to the brink - The (stories of persons seeking unemployment)
6. Michigan unemployment system designed to slow payments working all too well (Michigan unemployment system designed to slow payments)
7. COVID-19: How American states can manage the surge in unemployment services
March 30, 2020 | Article.
<https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19-how-american-states-can-manage-the-surge-in-unemployment-services#>

IV. Identity Verification

1. Fight Against Fraud Slows Payments to Unemployed [pewtrusts]

- States with no income tax, such as Washington and Nevada, had no income records to help substantiate claims, making it easier for fraudsters to get money they didn't deserve.
 - And new benefits for "gig" workers put states into uncharted waters, without the extra verification of a traditional employer with records of layoffs and wages.
2. Unemployment filing issues continue, identity verification is slowing up some [local news video]
 3. Identity verification issues frustrate unemployed Stuart woman [local news video]

V. **Books**

- Monthly Labor Review: What would a comprehensive reform of the Unemployment Insurance program look like? [US Bureau of Labor and Statistics] Review / summary of "Unemployment Insurance Reform: Fixing a Broken System"

VI. **Data/Statistics**

1. Overview: US Department of Labor
2. US Dept of Labor, Employment & Training Administration UI Claims Filing Method; <https://oui.doleta.gov/unemploy/filingmethods.asp>
3. Benefits: Timeliness and Quality Reports: <https://oui.doleta.gov/unemploy/btq.asp>
4. <https://oui.doleta.gov/unemploy/performance1.asp>
5. Local Area Unemployment Statistics Home Page
6. Effects of the coronavirus COVID-19 pandemic (CPS)
7. Massachusetts Economy at a Glance
8. US Department of Labor
9. Unemployment Insurance Statistics | iowaworkforcedevelopment.gov - www (IOWA)
10. Brookings What weekly unemployment claims reveal about the local impacts of the COVID-19 recession
11. <https://www.dol.gov/ui/data.pdf>
12. State UI Trust Fund Solvency Report, Employment & Training Administration (ETA) - US Department of Labor
13. Interactive Maps and Data Tools (CALIFORNIA)
14. U.S. DEPARTMENT OF LABOR <https://www.dol.gov/general/topic/statistics/employment>
15. MLR Home : US Bureau of Labor Statistics
16. <https://www.bls.gov/sae/>
17. Department of Labor, Employment and Training Administration (ETA), Unemployment Insurance Weekly Claims Data <https://oui.doleta.gov/unemploy/claims.asp>
18. <https://www.bls.gov/bls/unemployment.htm>
19. Unemployed persons by industry and class of worker, not seasonally adjusted <https://www.bls.gov/news.release/empsit.t14.htm> ; <https://www.bls.gov/web/empsit/cpseea31.htm>
20. <https://www.bls.gov/charts/employment-situation/civilian-unemployment-rate.htm>
21. State and local unemployment rates: <https://www.bls.gov/lau/>

22. **US Chamber of Congress** Data from IRS:
<https://www.uschamber.com/state-state-data-independent-contractors>
23. <https://fredblog.stlouisfed.org/2020/07/mapping-u-s-unemployment-claims/>
24. **PEW Charitable Trust**
<https://www.pewtrusts.org/en/trust/archive/summer-2020/the-impact-of-the-coronavirus>
25. **National Employment Law Project (NELP)** :<https://www.nelp.org/publications/>
 - a. <https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/>
 - b. <https://www.nelp.org/publication/public-task-forces-take-on-employee-misclassification-best-practices/>
 - c. <https://www.nelp.org/publication/unemployment-pandemic-addressing-americas-job-crisis/>
 - d. <https://www.nelp.org/publication/unemployment-insurance-covid-19-cares-act-role-ui-pandemic/>
 - e. <https://www.nelp.org/publication/nelp-testimony-michele-evermore-michigan-unemployment-claims-processing/>

Visualizing Unemployment (examples)

1. [Visualizing The Rapid Change In Every US County's Unemployment Rate Since The Coronavirus Outbreak](#)
2. [Unemployment claims by state: See how COVID-19 has destroyed the job market \(Visualizations\)](#)
3. [Unemployment Claims & Rates - Recovery Decision Science](#)
4. [Notable maps visualizing COVID-19 and surrounding impacts | by Mapbox | maps for developers](#)
5. Example dashboard: Current only to April 25th 2020. US Weekly Unemployment Data
<https://disasterresponse.maps.arcgis.com/apps/opstdashboard/index.html#/c36ff122ea784d54bf6e0230dea992b7>