

Ensure Access for Workers with Limited English Proficiency



What is it?

Just like their native-born counterparts, immigrant workers seek unemployment insurance benefits from state agencies every day. Often these immigrant workers have difficulty in accessing UI benefits because services are provided only in English. Some states have taken the lead in ensuring that more unemployed workers, including those whose English is not perfect, have access to UI by providing translated written materials and interpreters at all levels of the application, continuing claim, and appeal processes.



Key arguments in favor

Federal law requires states to provide access to government benefits for LEP individuals. Title VI of the federal Civil Rights Act expresses a national policy in favor of providing access to benefits to limited-English-proficient (LEP) individuals. This federal law protects against discrimination based on national origin and requires that services for federally-funded programs be made available in languages other than English when necessary.

Immigrant workers contribute to the economy and to the UI system; they should not be impeded in accessing benefits. Between 28 and 30 million immigrants live in the United States. Over the past decade, new immigrants accounted for half of the growth in the workforce; and researchers expect this growth to continue. Employers of immigrant workers pay into the UI system. Unemployed immigrant workers should not be cut out of the UI safety net just because they have limited English ability.



Key arguments against and responses to them

Opponents say: Provision of bilingual forms and services is too expensive.

Response: An Office of Management and Budget (OMB) report on the costs and benefits of language access finds that provision of language-assistance services for particular LEP individuals could substantially improve the health and quality of life of many LEP individuals and their families. In California, the Department of Social Services spent, in 2001, less than \$750,000 of its \$18 billion dollar budget on language services such as translations.



Which states do it?

On their own initiatives, states are addressing language access issues at the state level.

- The California legislature recently amended its Dymally-Alatorre Bilingual Services Act. The new law requires every state agency and state department to establish an effective bilingual services program that develops, implements, coordinates, and monitors a departmental plan, including a procedure for accepting and resolving complaints. The agency's plan must be updated every two years. Many unemployment insurance forms and brochures are printed on the state agency web page in four languages.
- Massachusetts' unemployment insurance law provides that all notices and materials be available in ten specified languages, and any other language that is the primary language of at least 10,000 or .5% of all residents of the commonwealth.

Some states, including Massachusetts and Washington, allow lack of notice in a language that the claimant can understand to excuse late filing of appeals.



Model legislation for comprehensive bilingual state services

California

Dymally-Alatorre Bilingual Services Act. CAL. GOV'T. CODE §§ 7290-7299.8, available at <http://www.leginfo.ca.gov>.

Maryland

Equal Access to Public Services for Individuals with Limited English Proficiency. MD. CODE ANN., STATE GOV'T §§ 10-1101-10-1105, available at <http://mlis.state.md.us>.



Model legislation requiring bilingual notice and providing good cause for late appeals

Massachusetts

(a) The division shall issue all notices and materials explaining the provisions of this section in English, Spanish, Chinese, Haitian Creole, Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian and any other language that is the primary language of at least 10,000 or 1/2 of 1% of all residents of the commonwealth. If the division fails to issue a bilingual notice in the claimant's primary language and such omission results in the claimant's failure to meet a deadline or requirement, the division's omission shall constitute good cause for the claimant's failure.

MASS. GEN. LAWS ANN. ch. 151A, § 62

References

Rebecca Smith, Amy Sugimori & Luna Yasui, *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights*, 28 N.Y.U. REV. L. & SOC. CHANGE 597 (Aug. 2004).

U.S. DEP'T OF LABOR, COMPARISON OF STATE UNEMPLOYMENT INSURANCE LAWS 2003, 7-2 (2003).

Wayne Vroman, *Low Benefit Reciprocity in State Unemployment Insurance Programs* (June 2001), available at <http://wdr.doleta.gov>.