



FLORIDA LEGAL SERVICES, INC.

May 18, 2012

Via Electronic Delivery & First-Class Mail

The Honorable Hilda Solis
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

RE: Florida Unemployment Insurance Program

Dear Secretary Solis:

We are writing to bring your attention to recent changes in the Florida Unemployment Insurance (UI) program that have resulted in serious declines in access to benefits for unemployed Floridians.

In 2011, the state of Florida enacted a series of significant changes to the state's Unemployment Insurance law (HB 7005). These changes uniformly benefitted employers, making it more difficult for unemployed workers to access, qualify for, or maintain benefits, and decreasing the amount of benefits qualified unemployed workers are eligible to receive. Reasons to disqualify claimants were expanded, and barriers to securing benefit eligibility were either created or increased, seemingly with the intent to ensure that fewer unemployed workers access benefits.ⁱ

Most of these changes restricted access to benefits in some substantial way, by either altering existing claim procedures or adding new eligibility requirements. The cumulative impact of these changes is that the process of filing an initial claim for benefits is much more difficult for the average Floridian, and many potentially eligible claimants are being discouraged from filing.

The Florida UI program already has the lowest reciprocity rate in the country. In 2011, only 17 percent of the state's unemployed received state UI benefits, compared to 27 percent nationally. In the fourth quarter of 2011—the first full quarter after the changes in HB 7005 were implemented—Florida's reciprocity rate dropped further to 15 percent.ⁱⁱ Under the federal-state unemployment insurance program, states have an obligation to ensure that involuntarily unemployed workers who meet basic eligibility criteria are able to access benefits that provide temporary partial wage replacement between jobs. Florida is no longer fulfilling that obligation.

While each of the legislative changes in HB 7005 was reviewed and determined by the U.S. Department of Labor (USDOL) to be in conformity with federal law, in operation, the cumulative effect of these changes, as implemented by the Florida Department of Economic Opportunity (DEO),ⁱⁱⁱ has been to impose layers of bureaucratic and technological obstacles that make applying for benefits a more complex challenge than in any other state in the country.^{iv} **The filing procedures established by the DEO to implement the new legislation do not comply with Section 303(a)(1) of the Social Security Act, which requires states to "establish methods of administration reasonably calculated to insure payment of benefits when due." Instead, the revised procedures, by design and effect, make it as difficult as possible to access Florida UI benefits.**

Our concerns are documented in greater detail below. We believe that it is incumbent on the USDOL, as the federal agency charged with regulating the administration of the UI program, to investigate these concerns and to take all appropriate action to ensure that the state of Florida provides its unemployed workers fair access to the benefits they are due.

THE NEW FLORIDA LAW: HB 7005

Effective August 1, 2011, Florida DEO instituted a series of changes in claim-filing processes in response to House Bill 7005, signed into law on June 27, 2011. Relying on a statutory change that calls for initial and continued claims for benefits to be made by “approved electronic means,”^v Florida limited the method of claim filing, which had previously been a combination of telephone filing, paper-claims acceptance, and online filing, to exclusively online filing. Not only did DEO eliminate paper filings, even in cases where to provide same would be an appropriate accommodation under the Americans with Disabilities Act or Title VI, but DEO additionally interpreted this change to require the cessation of all telephone filing, the method that remains the primary filing method for initial claims in the vast majority of states.

Concurrently, Florida UI law was amended to require all claimants to complete an “individual skills review,” which is defined as “an online education or training program, such as that established under S.1004.99, that is approved by the Agency for Workforce Innovation and designed to measure an individual's mastery level of workplace skills.”^{vi} Beginning on August 1, 2011, individuals filing online benefit claims were required to complete a 45-question test—15 questions on applied mathematics, 15 on reading for information, and 15 on locating information. During the legislative process, the USDOL’s ETA Office of Unemployment Insurance had warned that completing such an examination could not be a condition of initial eligibility, as this would violate federal law. The state’s assurance that completion of the 45-question test would only be a condition of *continuing* eligibility, however, apparently allayed USDOL’s concern that the exam would add an additional factor beyond the “fact and cause” of unemployment. Yet, contrary to its assertion that the individualized skills review would only be a “continuing eligibility” requirement, DEO’s actual administrative practice clearly prohibits any eligible UI claimant from receiving any benefits until he or she has completed the exam.^{vii} To any reasonable observer, it certainly appears that completing the 45-question test is a condition of initial eligibility for benefits.

LEGAL ISSUES AND ACCESS OBSTACLES RESULTING FROM HB 7005

The coupling of the requirement to file initial claims online and the requirement to complete a lengthy academic-type examination online has raised the following issues:

- 1. Ineffective Customer Assistance.** Telephone claim-filing previously provided the advantage of a live person providing customer assistance when claimants (including but not limited to those with literacy or intellectual challenges) had difficulty understanding questions. But now DEO has no effective real-time online capacity for getting claim-filing problems resolved for claimants during the filing process. While most states offer an online initial claim, few have so abruptly eliminated the telephone initial claim option, which is the predominant filing method in the rest of the country. The DEO acknowledges that the average initial claim alone takes approximately 30 minutes to complete online.

The principal way to access customer services (for language assistance or basic interventions like explanations of the claim questions or back-dating of claims) is through a call center, but the wait for customer assistance can be as long as a half-hour. For unemployed claimants without a landline, spending limited cell phone minutes on hold while they tie up a computer station at their nearest public library is not an option.

DEO claims that, under its new system, claimants looking for help applying for benefits just need to leave a recorded phone number and a call-center representative will call back the claimant to answer questions. However, in response to a recent request under the Florida Public Records Act, the DEO indicated that it has no monthly records detailing the numbers of attempts made by call-center staff to return claimants' calls or the percentage of claimants who are not reached with a call-back. Without such basic data, the DEO is unable to demonstrate that it has provided an effective means of helping claimants who need telephone assistance in filing their claims.

For persons with disabilities, the call center may not provide even adequate assistance. The situation of Mr. R.S. is particularly heart-breaking. Mr. R.S. was born deaf and never educated in English. His primary language is American Sign Language (ASL). Twice in February 2011 and once in May 2011, he used a video relay system at his public library to attempt to contact DEO in order to request help with the online application, or alternatively, to ask the agency to mail him a paper application. Each time, as soon as the ASL interpreter introduced himself, the call-center phone attendant hung up. When a friend of Mr. R.S. telephoned the call center on his behalf in March 2011 and again in August 2011, the agency phone attendant declared that he could not speak with a friend and the claimant himself had to call the call-center phone number. When Mr. R.S. attempted to use a computer on his own to apply in December 2011, he got error messages both times. Finally, in January 2012, Mr. R.S. went in person to a One-Stop office affiliated with DEO to ask for help in person. He showed the attendant a card informing the agency of its obligation to provide an ASL interpreter and he was told to wait. He waited almost three hours but never got any help.

- 2. Language Barriers.** Florida's telephone claim-filing system previously provided Spanish and Creole options on the interactive-voice-response (IVR) menu and a contracted language interpretation service for those claimants for whom English, Spanish, or Creole was not the primary language. When the telephonic claim-filing was eliminated in August 2011, there was only an English and Spanish version of the online initial claim. It was not until February that Haitian Creole was added. To date, the online application remains unavailable in any other languages. While the state is not required to translate the initial claim document into all languages, it *is* obligated to ensure that all limited-English-proficient (LEP) claimants are provided the necessary language assistance to apply for benefits. The DEO's current requirement that all initial filings, skills assessments, and work-search reporting be accomplished exclusively online is in clear violation of USDOL Guidance Regarding the Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons, which orders agencies administering federally funded benefits to take reasonable steps to ensure that such individuals receive, free of charge, the language assistance necessary to afford them meaningful access to programs, services, and information. These violations are the subject of a complaint with USDOL's Civil Rights Center filed by the Miami Workers Center on November 18, 2011 (attached).^{viii}
- 3. Initial skills review imposes unnecessary burden on establishing eligibility.** In order to complete the initial claim, claimants are directed to the online individual skills review. This academic examination consists of 45 questions—15 questions testing applied mathematics, 15 questions testing reading for information, and 15 questions related to locating information. The DEO acknowledges that the initial skills review takes an average of 30 to 45 minutes to complete. DEO claims that the test is proprietary and has rejected all requests by organizations representing workers to review the test. Thus, there is no publicly verifiable means to determine whether the test is, in fact, a valid measure of a claimant's work skills, employability, or any other characteristic that relates to whether the claimant should be eligible for unemployment insurance.

- 4. Right to exemption from initial skills review requirement deliberately inaccessible.** The individual skills review is available in English, Haitian Creole, and Spanish only. A claimant who cannot read and comprehend English, Creole, or Spanish (or who is illiterate) may apply for an exemption if he or she “affirmatively attests” to being unable to complete the review. But there is no prominent advisement in the online claim form or skills assessment about how to make such an application for exemption or affirmative attestation. Further, there is no such advisement on the IVR phone menu, and recorded messages state that all claims-related tasks “must” be completed online. Testers contacting the call centers are similarly misled about the ability of illiterate or LEP individuals to apply for an exemption to the skills review.

- 5. DEO implementation of electronic filing and initial skills review prevents payment of benefits when due.** USDOL approved the authorizing legislation as being in conformity with the Social Security Act and the Federal Unemployment Tax Act (FUTA) based on the state’s representation that completing the individual skills review would be a condition of continuing—not initial—eligibility. Because completion of the skills assessment is extraneous to the fact and cause of unemployment, the FUTA withdrawal standard would say it is a factor that cannot be considered in the initial application process. Despite this nearly 50-year-old interpretation of federal law, USDOL has concluded that because Florida imposes a waiting week before the first compensable week of benefits, the individual-skills-review requirement is not a condition of initial eligibility, but rather an acceptable administrative burden on the claimant’s continuing eligibility. The bottom-line result of this distinction without a difference is that in Florida, no claimant gets a dollar of UI payment without first having completed the 45-questions exam. The case of Ms. C.H. provides an illustration.

Ms. C.H., a fully English-proficient claimant, applied online for benefits in late November 2011, but did not complete the skills review at that time, because she did not understand that the skills test was a prerequisite to getting her initial benefits, that it had to be completed before eligibility could be conferred, and that it had to be completed within a specific time period dating from the submission of her application. Ms. C.H. never got her first benefits payment. She also never got a warning notice telling her the agency was missing her skills-review information. Instead, 23 days after she applied, the agency mailed her a denial determination finding her ineligible based on her failure to complete the skills review. Ms. C.H. appealed, and about a week after the first notice, the agency sent her a second denial determination finding her ineligible from November 27 through December 17, 2011, and noting that she would continue to be ineligible until the skills assessment was completed. Ms. C.H. participated in a telephonic hearing and the ineligibility was upheld. While she did begin getting benefits after December 22, 2011, the date the agency states she completed the skills review, she lost almost her entire first month’s benefits.

The time it takes to complete the 45-question examination necessarily lengthens the initial claim process for the average unemployed worker to one hour and 15 minutes. For workers who are not literate or computer-literate, navigating this process in which there is effectively no available personal assistance will take much longer. In addition, technological barriers like poor internet connections can make the already lengthy process even more frustrating. Under Section 303(a)(1) of the Social Security Act, states must adopt methods of administration that are reasonable and will ensure payment of benefits when due. If the claim-filing process is so onerous that it discourages eligible workers from filing, then the administrative method is preventing the payment of benefits when due. The fact that the state calls the individual skills review a condition of continuing eligibility does not in any way alter the reality that the 45 questions are linked to a claimant’s initial claim and must be completed before the claimant can receive any benefits.

6. Large numbers of claimants are being denied benefits without warning for failure to complete initial skills assessment. Many claimants who complete the initial claim are unable to complete the initial skills review. Between August 1, 2011 and April 14, 2012, DEO reports that 43,680 claimants were denied benefits because they did not complete the initial skills review. DEO originally represented that it used a notice to warn claimants who had not completed the initial skills review that it needed to be completed before the agency would deny benefits. However, in response to a request under the Florida Public Records Act, DEO did not provide any such notice and has not demonstrated that it actually uses such notice in practice. Claimants are, in fact, being denied without warning when they do not complete the online skills assessment, regardless of their inability to locate technical help in completing the 45-question exam. Thereafter, they must request a hearing to gain access to benefits for which they should be eligible “when due.”

Table 1 breaks out nonmonetary denials by reason in Florida for the first quarter of 2011 through the first quarter of 2012. Denials handed down for failure to complete the initial skills review are accounted for in the “Reporting Requirements” category. The legislative changes coincide with a more than fivefold increase in denials in this category, from 4,548 in the first quarter of 2011 to 24,668 in the beginning of this year. Today, it makes up the largest segment of total denials in the state, along with the categories “Disqualifying or Deductible Income” and “Able, Available, and Actively Seeking Work,” which respectively capture the severance disqualification and the work-search requirements in HB 7005.

Table 1: Number of Nonmonetary Denials by Reason in Florida, First Quarter of 2011 to First Quarter of 2012

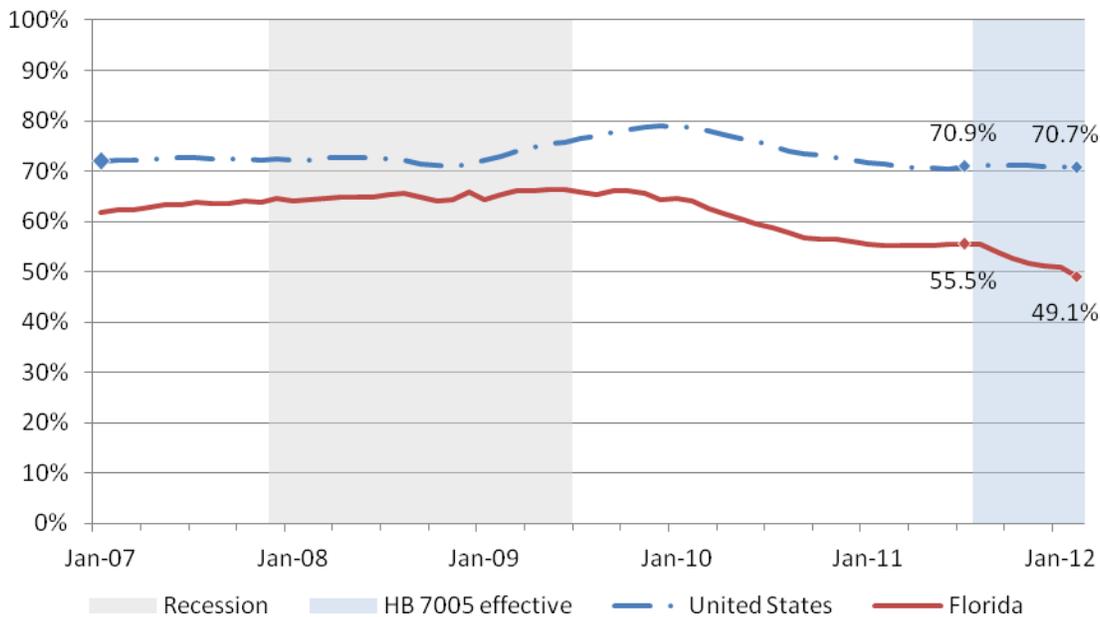
	Q1.2012	Q4.2011	Q3.2011	Q2.2011	Q1.2011
Total Denials	86,627	89,973	79,151	54,771	51,981
<i>Change from previous year</i>	66.7%	64.4%	24.9%	-11.6%	-13.8%
Able, Available, and Actively Seeking Work	25,103	31,893	27,180	10,797	9,952
Reporting Requirements	24,668	21,658	14,449	8,000	4,548
Disqualifying or Deductible Income	8,249	7,427	2,402	450	457
Other	2,348	2,507	4,904	3,045	3,283
Refusal of Referral to Profiling Services	586	711	812	1,219	1,224
Refusal of Suitable Work	174	154	171	164	212
Total Non-Separation	61,128	64,350	49,918	23,675	19,676
<i>Change from previous year</i>	210.7%	193.5%	94.4%	2.4%	-13.6%
Voluntarily Leaving Work	13,466	13,728	15,654	17,210	18,201
Discharge	12,033	11,895	13,579	13,886	14,104
Total Separation	25,499	25,623	29,233	31,096	32,305
<i>Change from previous year</i>	-21.1%	-21.9%	-22.4%	-20.0%	-14.0%
Initial Claims	173,205	186,010	201,402	216,809	228,603
<i>Change from previous year</i>	-24.2%	-20.3%	-15.7%	-10.4%	-8.7%

Source: U.S. Department of Labor, Employment and Training Administration, 207 Report, Nonmonetary Determination Activities.

7. New requirements result in disproportionately fewer unemployed workers applying for and receiving UI benefits. The new online filing requirements and individual skills review were instituted on August 1, 2011. Since then, average new initial claims and first payments in Florida have experienced disproportionate declines relative to the national level, despite the fact that statewide unemployment has not dropped below 9.0 percent. From July 2011 to January 2012, initial claims in Florida declined by 15.7 percent, while first payments dropped by 23.4 percent. By comparison, initial claims and first payments declined by just 5.2 percent nationwide. Both have continued to decrease at a faster rate in Florida over the first two months of 2012.

The steeper drop in first payments has led to a decline in the share of new persons applying for benefits who receive them, a measure known as the first-payment rate. The first-payment rate in Florida has been lower than the national rate since the beginning of the recession (Figure 1). However, the rate shifted downward in September, shortly after the legislation took effect, and has continued in this direction since. Meanwhile, the U.S. average rate dropped by less than half a percentage point between August 2011 and February 2012. February was the first month that less than half (49.1 percent) of new applications for UI in Florida resulted in benefits, compared with 70.7 percent nationwide. At 21.6 percentage points, this is the widest this gap has ever been.

Figure 1: Percentage of New Initial Claims Resulting in First Payments in the U.S. and Florida from January 2007



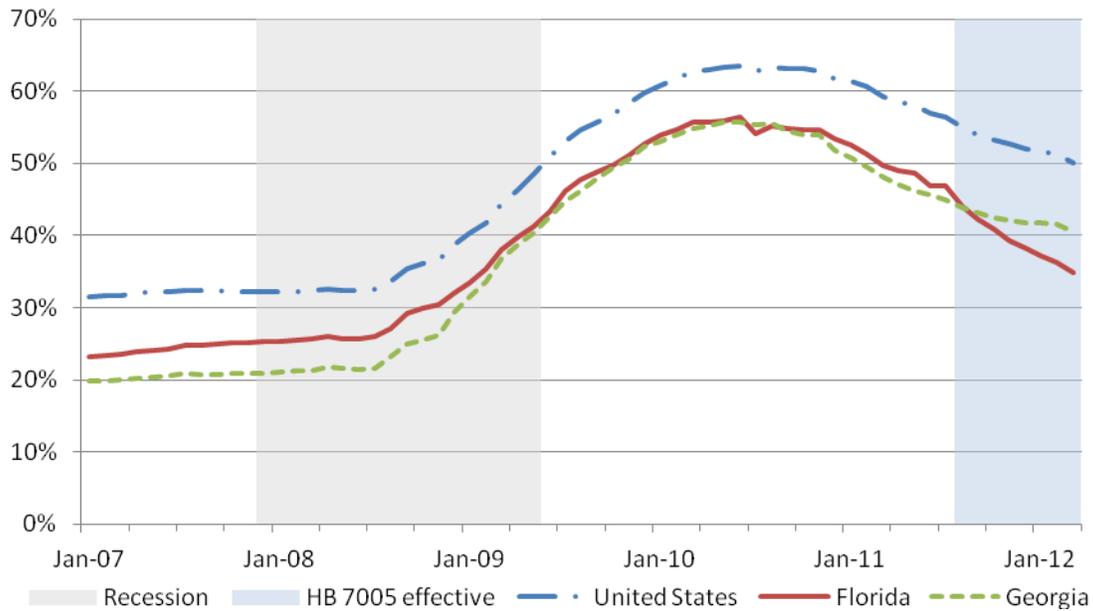
Source: U.S. Department of Labor, Employment and Training Administration, 5159 Report, Claims and Payment Activities. New initial claims and first payments cover regular state benefits. Figures are 12-month moving averages to account for seasonality.

In response to a request under the Florida Public Records Act, the DEO indicated that it had no monthly records documenting the number of individuals who began an initial claim for UI benefits online but never completed and submitted the final online application. It is the responsibility of the state agency charged with administering the UI program to make sure that its processes are not deterring claimants from applying for benefits. Without maintaining basic data about “abandoned claims,” as is common practice in most states, the DEO has no evidentiary basis to dispute the growing

concern that its exclusive online application process, coupled with the initial skills review, is deterring unemployed Floridians from applying for unemployment insurance.

The sudden deterioration of the state’s UI program is evidenced by the widening gap between the Florida and the U.S. all-programs reciprocity rates (Figure 2).^{ix} Nationwide, reciprocity began to decline in mid-2010. While Florida followed a similar pattern, the decline accelerated following the effective date of HB 7005. During the first quarter of 2012, only one in three unemployed workers received either state or federal UI benefits, whereas nationwide, approximately one in two unemployed workers did.

Figure 2: All-Programs UI Reciprocity Rate: Weeks Compensated to Total Number of Unemployed Workers from January 2007



Source: U.S. Department of Labor, Employment and Training Administration, 5159 Report, Claims and Payment Activities and Bureau of Labor Statistics, Current Population Survey. Weeks compensated cover regular state benefits, UCX and UCFE, EUC 2008, and EB. Figures are 12-month moving averages to account for seasonality.

The decline is even more evident when compared to Georgia, a neighboring state that also experienced high unemployment and had access to the Extended Benefits and Emergency Unemployment Compensation programs. Over 40 percent of unemployed workers there received UI at the beginning of this year.^x Reciprocity in Florida has reached an unacceptably low level that threatens the UI program’s capacity to provide sufficient wage replacement and stabilize the state’s economy during downturns.

Conclusion

It is now abundantly clear that the 2011 changes in Florida’s unemployment insurance law—whether as intended or applied, or both—have made it much more difficult for the unemployed to access the benefits they have earned and for which they qualify, and that the added burdens are disproportionately heavy for individuals who already face significant obstacles to employment and for whom the modest support unemployment insurance provides is crucial. The disability and language access concerns are well documented

in the complaint that is currently being investigated by the Civil Rights Center. But the access issues in Florida are much broader than that and impair access for workers beyond non-English-speakers.

First, DEO shut down the much more accessible telephone claim option without having been statutorily compelled to do so. Then, it limited initial claim-filing to the internet with an inadequate system of support that makes a basic application for benefits an obstacle course for claimants with limited literacy, English language skills, or computer skills—in fact, for any workers who lack facility with internet applications, including persons with disabilities. Layered on these changes is a 45-question academic exam—one that has not been publicly disclosed and may not have been validated—attached to the initial claim to create an application that takes even savvy claimants 75 minutes to complete. It is not surprising that some otherwise eligible claimants would give up in the face of this process.^{xi} Finally, despite DEO’s representation to USDOL that the exam is not a condition of initial eligibility and simply one for continuing eligibility, this distinction without a difference has disenfranchised otherwise eligible claimants from qualifying for and receiving some or all of the benefits they have earned.

The Social Security Act explicitly prohibits states from constructing methods of administration that are not reasonable and that are not calculated to ensure payment of benefits when due. As described above, Florida’s implementation of HB 7005 imposes so many obstacles on the fundamental right of unemployed workers to apply for unemployment insurance that the state’s UI program no longer complies with the Section 303 of the Act. As reflected by the extraordinarily low rate of reciprocity of benefits in a state that continues to experience such high rates of unemployment, the state’s administration of its UI program, by design or effect, has become so egregious that it simply cannot go unchallenged. We strongly urge the U.S. Department of Labor to undertake a full review of the Florida initial claim-filing system and individual skills review to determine if it is in compliance with the “when due” mandates of Section 303(a)(1) of the Social Security Act. We are prepared to meet to discuss this complaint and provide any additional information your agency may require in its investigation of this matter.

Sincerely,

Florida Legal Services

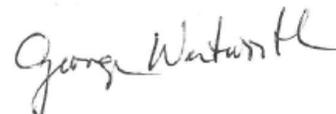

Valory Greenfield
Senior Staff Attorney


Cindy Huddleston
Senior Staff Attorney


Arthur Rosenberg
Senior Staff Attorney

National Employment Law Project


Christine Owens
Executive Director


George Wentworth
Senior Staff Attorney

CC: M. Patricia Smith
Solicitor

Jane Oates
Assistant Secretary, ETA

Roberta Gassman
Deputy Assistant Secretary, ETA

Gay Gilbert
Administrator, Office of Unemployment Insurance

NOTES:

ⁱ Some of the major changes enacted by HB 7005 included:

- Eliminating Florida's requirement that its UI law "shall be liberally construed in favor of the claimant"
- Requiring all UI applicants to take an online "Initial Skills Review" test in order to be eligible for benefits
- Expanding the scope of disqualifying misconduct to (1) include misconduct that occurs outside the workplace and working hours, (2) lower the misconduct standard from "willful and wanton" to "conscious disregard of employer's interests," (3) change an employer's expectation from behavior that the employer "has a right to expect" to "reasonable" standards the employer "expects"
- Reducing the duration of benefits from a maximum of 26 weeks to a maximum of 12 to 23 weeks, based on a sliding scale pegged to Florida's unemployment rate that decreases the maximum incrementally to 12 weeks if the unemployment rate reaches 5 percent
- Requiring that all benefit claims must be filed electronically
- Expanding the use of hearsay at benefit hearings to enable its use to fully support a referee's finding
- Requiring all UI recipients to contact, and report the contacts to the state agency, five employers per week to maintain eligibility. This requirement was changed in 2012 to only require contact with three employers in small Florida counties (Fla. Stat. 443.091(1)(e)6.)

ⁱⁱ U.S. Department of Labor, ETA, Unemployment Insurance Data Summary, 4th Quarter 2011.

ⁱⁱⁱ The Department of Economic Opportunity was the Agency for Workforce Innovation at the time the 2011 statutory changes were enacted. We refer to the agency by its current name or "DEO" throughout this letter.

^{iv} While not the subject of this letter, it is important to note that these new barriers to accessing benefits were coupled with a slashing of available benefits as well. House Bill 7005 reduced the number of weeks of available state UI benefits from 26 weeks to a number of weeks somewhere between 12 and 23 based on the state's three-month average total unemployment rate.

^v Fla. Stat. 443.151, as amended by section 11 of HB 7005.

^{vi} The initial skills review requirement was included in an extensive rewrite of Florida's benefit eligibility conditions. (Fla. Stat. 443.091) as follows:

- (1) An unemployed individual is eligible to receive benefits for any week only if the Agency for Workforce Innovation finds that
 - ...
 - (b) She or he has registered with the agency for work and subsequently reports to the one-stop career center as directed by the regional workforce board for reemployment services.
 - ...
 - (c) To make continued claims for benefits, she or he is reporting to the Agency for Workforce Innovation in accordance with this paragraph and its rules, and participating in an initial skills

review as directed by the agency. Agency rules may not conflict with s. 443.111(1)(b), which requires that each claimant continue to report regardless of any pending appeal relating to her or his eligibility or disqualification for benefits.

1. For each week of unemployment claimed, each report must, at a minimum, include the name, address, and telephone number of each prospective employer contacted, or the date the claimant reported to a one-stop career center, pursuant to paragraph (d).
2. The administrator or operator of the initial skills review shall notify the agency when the individual completes the initial skills review and report the results of the review to the regional workforce board or the one-stop career center as directed by the workforce board. The workforce board shall use the initial skills review to develop a plan for referring individuals to training and employment opportunities. The failure of the individual to comply with this requirement will result in the individual being determined ineligible for benefits for the week in which the noncompliance occurred and for any subsequent week of unemployment until the requirement is satisfied. However, this requirement does not apply if the individual is able to affirmatively attest to being unable to complete such review due to illiteracy or a language impediment.

(d) ...

A claimant must be actively seeking work in order to be considered available for work. This means engaging in systematic and sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed. The agency may require the claimant to provide proof of such efforts to the one-stop career center as part of reemployment services. Fla. Stat. 443.091.

^{vii} In 2012, the legislature enacted HB 7027. In doing so, Florida changed the name of its unemployment compensation program to the “Reemployment Assistance Program.” The Unemployment Appeals Commission was renamed the “Reemployment Appeals Commission,” and all statutory references to the UC program have been changed to “Reemployment Assistance.” As a result, to many unemployed workers, there may be some confusion and question as to whether Florida has an unemployment compensation program. In addition, the Initials Skill Review has been given more weight than in the 2011 law and will now be graded, and recipients of low scores will be offered training.

^{viii} The Miami Workers Center complaint also alleges violations to the civil rights of claimants with disabilities. DEO’s current requirement that all initial filings, skills assessments, and work-search reporting be accomplished exclusively online fails to accommodate the needs of claimants with disabilities. See, e.g., the experiences of Mr. R.S., detailed in *supra* under the heading “(1) Ineffective Customer Assistance.”

^{ix} In its 1995 report to the President and Congress, the Advisory Council on Unemployment Compensation recommended using the ratio of weeks compensated to the total number of unemployed individuals as a measure of reciprocity. The weeks compensated measure yields a lower reciprocity rate than the standard reciprocity rate (ratio of continued claims to total unemployment) due to the fact that 10 to 15 percent of claimants do not receive payments in a typical week due to denials, disqualifications, and waiting weeks. NELP has adopted the weeks compensated measure for purposes of this letter.

^x The “all programs” reciprocity rate is considered a more accurate measure of reciprocity during recessions when federal unemployment insurance benefits are available. The all programs rate includes regular state benefits, UCX and UCFE, Extended Benefits, and the Emergency Unemployment Compensation program.

^{xi} Even those claimants who successfully navigate the initial claim/individual skills review gauntlet face more filing obstacles in the continued claim process. In the first full quarter after implementation, the new electronic work search documentation requirements resulted in so many Florida UI claimants being disqualified for failure to submit a compliant work-search document, that disqualifications in the able/available/work-search category tripled from the last complete quarter before implementation (an increase of over 20,000). See Table 1.