

## ***NYS Practices to Reach Low Wage Workers***

- UI While in Training;***
- Limited English Proficiency;***
- Off The Books Wages***
- Other Low Wage Worker Issues***

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# ***Developing Meaningful Access***

# ***NYS Department of Labor***

## ***Unemployment Insurance – Benefits Division***

- ***Two Call Centers Locations – (virtual environment)***
- ***Approx 330 employees each location  
80+ bilingual employees***

***2009 - Processed approx. 730,000 claims  
for claimants speaking 60 different  
languages***

# Collecting UI While In Training:

## NYS is one of 6 states

... that allow claimants to attend training while receiving UI, and collect up to 26 additional weeks of benefits beyond the first 26 weeks (a.k.a “599 Program”):

### Approval Criteria:

- Training will upgrade claimants’ skills, or;
- Employment prospects are substantially impaired,  
or:
- Leads to better prospects for long term employment

- Some years ago: 2 out of 3 applicants were denied, now the reverse;
- About **4,000 people currently in the program**;
- Expanded approval criteria & moved approval process to One-Stops to better assess claimants' needs and align with WIA \$\$
- Example of improved program
  - Certified Nursing Assistant who may now study to be an R.N.:

# *Meaningful Access?*

- *Review Statistical Data*
- *Understand Barriers to Services*
- *Identify Vital Documents and Services*
- *How best to improve access?*

# ***Review Statistical Data***

**What languages should be emphasized?**

**We weight data from:**

- **US Census Data 2000/American Community Survey (.50)**
- **Division Language Service Reports(.25)**
- **Original Claims Data (.25)**

# Data - Weighted Indicators

Language	Labor Force (Speaks English Less than "Very well") (Weight = 0.5)	Original Claims (Weight = 0.25)	Language Line (Weight = 0.25)	Weighted Indicator
Chinese inc Cantonese & Mandarin	158,582	5,038	12,284	44.9%
Russian	63,550	1,500	2,803	14.1%
Creole	31,167	934	1,935	8.1%
Korean	40,037	365	650	6.2%
Polish	21,056	1,237	304	5.4%
French	21,228	273	165	3.2%
Italian	19,724	433	43	3.2%
Bengali	17,433	271	90	2.7%
Arabic	14,604	356	136	2.6%
Albanian	9,170	506	96	2.2%
Portuguese	11,045	348	37	2.0%
Vietnamese	11,422	215	155	2.0%
Bosnian/ Serbo- Croatian	7,152	292	211	1.7%
Greek	9,303	250	51	1.7%
<b>Total</b>	<b>435,473</b>	<b>12,018</b>	<b>18,960</b>	<b>100.0%</b>

# ***Common Barriers for Individuals with LEP***

## **Difficulties with:**

- **filing a claim/claiming weekly benefits**
- **understanding basic rights and responsibilities**
- **understanding determinations**
- **accessing hearing rights**
- **due process**

# ***Further Understanding the Barriers***

- ***Reach out to LEP Advocates  
(cash wages/half cash wages paid)***
- ***Community Outreach and listening to Community  
Based Organizations and individuals***
- ***Audit UI claims and processes  
(ID strengths/weaknesses)***

# Languages Served

*Level 1 English and Spanish*

*Level 2 Service*

- *Russian*
- *Chinese (inc. Cantonese & Mandarin)*
- *Haitian-Creole*
- *Polish*
- *Korean*

*Level 3*

- *French*
- *Italian*
- *Bengali*
- *Arabic*
- *Albanian*

*Level 4*

*Future:*

*Portuguese*  
*Vietnamese*  
*Bosnian*  
*Greek*

# ***Vital Documents***

- ***How to File a UI Claim Brochure (12 languages)***
- ***Claimant Handbook (12 languages)***
- ***Determinations***
- ***Hearing Rights and Notices***
- ***Coupons to claim weekly benefits***
- ***Call Back Letters***
- ***Important Notices***
- ***Work Search Record Forms***

# ***Vital Services -Telephone***

- *English and Spanish services parallel*
- *Options for **Russian, Cantonese/Mandarin (Chinese), Haitian-Creole, Polish and Korean***
- *All language calls transferred to an agent for assistance (service-140 languages)*
- *Agent records preferred language to ensure language assistance is offered by all staff, and staff follow internal procedures (fact finding, determinations, hearings)*
- *Bank Telephone language options parallel DOL's*

# ***Vital Services-Internet***

- ***English and Spanish parallel on the web***
- ***Webpage links to vital documents-translated in 10 additional languages***

## ***Other Services:***

- ***One Stop Offices utilize the same language service***
- ***ESL training courses now approvable***

# *Vital Hearing Services*

- *Key information on hearing notices translated in the top languages (date, time, location/phone, etc.)*
- *Interpreters provided at hearings when LEP claimant identified on the record*
- *Judge's decisions have appeal rights translated in top languages*

# *Other Vital Services*    *con't.*

*Employers registered with the New York State Unemployment Insurance Division with the exception of domestic service employers are required to post the Unemployment Insurance Notice to Employees (Form IA133) in an area visible to employees.*

*This notice is now available in English, Spanish, Chinese, Russian, Haitian-Creole, Polish and Korean.*

# *Lessons Learned*

- *Proactively reach out to Communities to better understand the needs of LEP claimant*
- *Evaluate the cost of translation services vs. the one time cost of translating documents.*
- *Allow claimants to self identify their language needs*
- *Check pc's/servers to ensure they can accommodate the language characters*

# ***Lessons Learned*** *cont'd.*

## ***Translator- Interpreter Contracts:***

- Establish turnaround times in the contract***
- Verify the reading level of the translators***
- Verify translations service hires native born translators***
- Ensure proofreading and formatting is done by the service***

# *Future Enhancements*

- *Website: Continued reorganization and enhancements of web services*
- *Add more languages to our services as dictated by the statewide statistics*
- *Establish one office for all LEP services to better control workflow and assignments to ensure compliance*
- *Tag lines in additional languages (French, Bengali, Italian, Arabic, Albanian, Portuguese, Vietnamese, Bosnian/Serbo-Croatian, Greek).*

# **Cash Wage Claims, NYS**

*To some extent, a spin-off of NYS' Misclassified Worker Task Force, we saw the need to address problem of many workers off the books or misclassified as independent contractors.*

*We developed a plan for a pilot, to handle these types of claims in a proactive manner.*

- *Pilot phase lasted from 1/09 through 7/09*
  - *Enabled NYS to develop questionnaires and procedures in use today*
  - *Current procedure still a working draft, being refined*
  - *All such claims examined by 'cash wage specialists' in the Central Office*

- *As the claimants most often lack the documentation providing proof of employment and earnings, there is no one minimum documentation requirement.*
- *Claimant's **verbal indication** that wages were paid in cash initiates the process;*
- *Questionnaires sent to both claimant and employer*
- *Claimant questionnaire:*
  - *Elicit information to validate claimant's contention*
  - *Names of other employees working there;*
  - *Layout of the work area*

- Work schedules, hours of operation?*
- Does claimant have a personal work history diary, calendar of work schedules, copies of pay envelopes or copies of deposits into checking/ savings accounts?*
- We are intentionally broad to allow claimants numerous options, when no paystubs are there;*
- Sometimes just the completion of the questionnaire, as well as verbal answers during investigation provided credibility and allowed the addition of wages to the claim;*

- *We established a **Cash Wage Data Base**, also serves as communication resource between*
  - *Central benefit payment unit;*
  - *Field Tax offices or Liability and Determination*
  - *Data Base Tracks:*
    - *# claims referred from call centers, who referred them,*
    - *pending claims,*
    - *questionnaires sent out,*
    - *claims resulting in no action (due to lack of responses to questionnaires)*
    - *Claims completed*

*To date (through 11/10/09):*

- Total of 122 claims referred to cash wage unit for review;*
- **The only time no action is taken is if no responses to questionnaires from both employer and claimant (24);***
- Another 19 pending responses now;*
  
- 22 claims sent to Field tax for investigation;*
  - **All 22 resulted in claimant wages being added;***
    - 4 resulted in increased weekly benefit rate*
    - 5 resulted in no change in weekly benefit rate (but 2 broke a separation disqualification)*
    - 13: rate being established;*
    - 3 required a new employer registration number*
    - 1 changed employer's liability dates*

## *Not all investigations go to Field Offices, some stay with Central Office Liability and Determination:*

- *16 resolved through L&D to date:*
  - *14 had wages added;*
  - *2 claims did not have wages added:*
    - *1: Because no employer information available*
    - *1; Earnings were not in covered employment*
  - *3 Claims are in L&D now under review*

- *38 Completed Claims to Date (Both Units):*
- *11 (29%) for non-English speaking claimants*
  - *1 Arabic, 1 Albanian, 3 Spanish, 6 Chinese;*
- *11 (29%) resulted in new employer registrations*
- *95% (36) had wages added*
- *-----*
- *About 31% of questionnaires are not returned to date.*

- ***Claimant Cash Wage Questionnaire***
  - ***Available in 7 languages:***
    - ***English, Spanish, Chinese, Russian, Haitian Creole, Polish, and Korean***
  - ***We, however, attempt to contact Spanish and Chinese speaking claimants over the phone in their own language to expedite the process—questionnaire is completed over the phone;***
    - ***We'll likely look to expand this to other languages if feasible;***
    - ***All encouraged to fax documentation to this special unit***

## Selected Low Wage Earner / Access Issues:

- Many low wage \$ thresholds, no one used by all;
- Difficulty: **an actual unemployment rate for low wage earners**—No way to link previous wages to larger pool of unemployed individuals
- **% of claimants w/qualifying wages in NYS that are  $\leq$  lowest quintile/ group of earners (20%)= \$23,296**
  - 1/08: 50% of beneficiaries came from lowest group;
  - 6/09: Dropped to **42%** (still largest of all 5 groups)

## ■ % of UI Claim Denials Due to Insufficient Wages?

– As more high wage earners have been laid off, % has decreased:

■ 2007: **7.9%**

■ 2008: Decreased over consecutive quarters from 7.1% to 6.1%

■ 2009: Seeing **5.7%**

– This equates to 15,000– 20,000 denials a quarter, (troubling) ...

NYS is one of (5?) states with a different weekly benefit rate formula for low wage earners:

- If their high quarter wages earned are  $\leq$  \$3,575 (equating to about \$14,300 a year), instead of being divided by 26, it's divided by 25.
  - Effectively increases their rate to 52% of AWW rather than 50%--adds about \$300 annually;
  - There has been consideration of a factor of 1/22—state law change needed—would add \$25 week for those at the higher limit, about \$1,300 annually
  - 9.5% of claimants benefited from this in October 09—54,000 people

- We don't rest on our laurels;
- More needs to be done in NYS:
  - We continually look to improve access to our services;
  - NYS' UI Appeal Board making many improvements as well, pro bono attorneys, hearing notice improvements, etc.
  - We value our partnerships with NELP, Legal Services entities, Legal Aid society, and others.