



NEW YORK STATE SENATOR

Brian Kavanagh

## Kavanagh & Brooklyn Colleagues Propose Additional Fixes to Unemployment System

BRIAN KAVANAGH April 17, 2020

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On April 17, Senator Kavanagh, along with 13 other elected officials, wrote to Governor Cuomo to call for 10 improvements to the unemployment system -- including clarifying the process for UI/PUA applications, creating an online system in languages other than English, and providing updates on when applicants will receive benefits. This letter highlights the need to make sure our government's public benefits systems work well, particularly when people need them the most. The text of the legislators' letter is below; the original may be viewed via the link above.

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April 17, 2020

The Honorable Andrew M. Cuomo  
Governor of New York State  
NY State Capitol Building  
Albany, NY 12224

Dear Governor Cuomo:

As New York State continues to face an unprecedented public health crisis that has triggered economic upheaval, attention is needed to address our state's unemployment emergency. While we are encouraged by the recent improvements made to the unemployment insurance (UI) application system, there are still many areas of concern.

The New York State Department of Labor (DOL) is confronting a massive and unexpected strain on its system, and it will take significant resources to meet the need. Over half a million New Yorkers tried to file for UI in March and the state's Telephone Claims Center (TCC) hotline continues to receive almost 80,000 new claims daily. As elected representatives, we are hearing from constituents who have been out of a job for weeks and who have been calling the TCC hotline hundreds -- and even thousands -- of times without getting through. We are also hearing about other barriers to accessing benefits, such as proof of work, awaiting a hearing, and other application hurdles. Many of our constituents are reaching the end of their limited savings, and many others were already living paycheck to paycheck.

We appreciate the improvements that DOL has implemented to date. These changes are significant, including the hiring of 1,000 TCC staff, the staggering of call times by last name to space out requests, the recent rollout of an upgraded online application system in partnership with Google, and the implementation of a call back system. We are also grateful

to the DOL staff, many of whom are working around the clock during a pandemic to help New Yorkers access benefits and implement the needed fixes. The fact remains, however, that more must be done. The UI system's technological issues are a result of decades of disinvestment. COVID-19 has exposed and exacerbated societal inequities and that has been made explicitly clear in our public benefits system: the fact that New York's Department of Labor relies on 40-year old software and an outdated call system indicates how far we still have to go to address systemic inequities across New York.

Job loss can impact any of us, no matter a person's income; and no one should have to worry about being able to afford groceries or pay rent because of bureaucratic barriers. It is incumbent on us to make sure our government's public benefits systems work well, particularly when people need them the most. As such, we propose the following recommendations:

**1. Clarify the processing of the UI/PUA application and the rules governing the PUA:** Prior to system upgrades, someone who is eligible for Pandemic Unemployment Assistance (PUA), but not traditional Unemployment Insurance (UI), had to first apply for UI, get rejected, and then apply for PUA. This added an unnecessary and time-intensive step, which contributed to overloading of the system and delaying the process for thousands of people seeking unemployment who were forced to wait weeks for approval.

It is our understanding that the new online system streamlines these two applications so that the applicant only has to apply once, but that applicants who applied for UI under the prior system will still have to apply again for PUA. We would appreciate clarity and guidance on the new system and the old system for UI/PUA so that we can inform our constituents, and recommend streamlining both of the applications regardless of how or when the applicant applied. It is also critical to inform the public of the eligibility rules governing the PUA program and when PUA applications will be processed. For example, it is not clear

which, if any, of the regular UI rules are being applied to the PUA program or if someone who is working part-time from home is eligible for PUA. Moreover, there is tremendous confusion about what documents are needed to prove net income and whether or how to upload those documents so that PUA applications can be processed quickly.

**2. Ensure that the new online system is available in languages other than English:** It appears that the new online application system is only available in English, and that the previous system is only available in English and Spanish. Therefore New Yorkers whose first language is not English would still need to call into the TCC to apply. Further, the TCC is occasionally providing different phone greetings; one of which is only in English and disconnects the caller after informing them to apply online. It is imperative, for the effectiveness of these programs and fundamental fairness that DOL expand the range of languages in which one can gain equal access to these systems.

**3. Provide an update on when applicants will receive benefits and how they will certify each week:** Many applicants are nearing the end of their savings and are worried about when UI benefits will arrive. Further, given the current quarantine, it is our understanding that New York State would implement the relaxing of work search requirements so that claimants would be able to claim benefits each week; we are awaiting such guidance.

**4. Monitor the 72-hour callback system and provide guidance to avoid callbacks:** The new call back system has provided an enormous measure of relief for our constituents. However, we do still have constituents informing us that they have not received a call back within 72 hours. Further, some of our constituents have informed us that they missed the call since it showed up as a “private caller” and we are glad to see that this call will now be coming from a 518 area code. We suggest that DOL add the notification about a possible automated call and a call from a 518 number to the application process, in order to assist those applicants who may not be in touch with their elected officials’ offices or be able to access these tips on DOL’s social

media.

Further, we have also been informed that a common mistake on the application that triggers the need for a call is that applicants leave blank straightforward questions, like their address. We also suggest adding an alert during the application process when certain information is not completed that will trigger a call.

**5. Update the UI application:** The unemployment application is confusing and the wording should be improved. This creates barriers for people with limited literacy and results in applicants making application errors that later need to be corrected. Your recent announcement that the application was shortened is positive news, and the State should ensure the application is clearly readable and available in multiple languages, beyond English and Spanish.

**6. Invest in the technological infrastructure New Yorkers deserve:** The coronavirus pandemic has exposed decades of disinvestment in this program. The Department should release a long-term modernization plan that includes an analysis of application accessibility, plans for ongoing system upgrades, and more culturally responsive resources. The delays people have experienced over the past few weeks have put thousands of families' well-being, housing, and nutrition at risk. The stories are heartbreaking, and no other New Yorker should have to go through the same preventable struggles.

**7. Update the process for those who have exhausted their benefits after 7/1/19:** Currently, an individual who has exhausted their 26-week benefit is either unable to certify or unable to submit a new claim necessary to obtain the additional 13-weeks of support permitted through Pandemic Emergency Unemployment Compensation. Those who have been able to certify have not received any additional weeks of benefits. These claimants must be able to automatically obtain the additional 13-weeks of support.

**8. Issue a directive relaxing the work search requirements.** The United States DOL issued guidance that recognizes that states have significant flexibility in implementing requirements that claimants be available for work and make efforts to search for work. (Unemployment Insurance Program Letter (UIPL) No. 10-20 (March 12, 2020). Given the current shut-down of all but essential services, work search requirements should be waived as long as the individual is ready to return to work once the quarantine is lifted. We await the directive per your announcement expressing this change would occur.

**9. Issue a directive that makes clear to the public that refusing to work under conditions that are inconsistent with government orders on health, safety and sanitation will not make you ineligible for UI benefits.** This is critical not only to protecting workers by giving them a meaningful choice not to endanger themselves and their families, but it will also induce compliance with governmental orders and prevent the spread of COVID-19, particularly in low-income communities of color.

10. Lastly, we urge you to implement the recommendations outlined in a recent letter to you from the New York Unemployment Insurance Coalition, including:

a. Approving claims, where monetary eligibility is established, prior to making a final eligibility determination; b

b. Requiring companies that the DOL has previously determined to be employers (such as Uber, Lyft, Handy, and Postmates), to provide wage information to the DOL so that claimants employed by such companies can complete their applications online and receive their benefits;

c. Temporarily toll the recovery of outstanding overpayments and penalties so that claimants who are otherwise eligible can immediately access vital unemployment benefits, including federally funded benefits, during the pandemic; and

d. Grant benefits to claimants (about 5,000) who were found to be ineligible for UI and who have requested hearings in 2020 and who have been waiting for a hearing during this pandemic.

Thank you for your consideration of our recommendations. We look forward to receiving your reply and to continuing to work with you, your staff, and the DOL to ensure that these programs effectively serve the New Yorkers we are all privileged to represent.

Sincerely,

Council Member Stephen Levin

Assembly Member Jo Anne Simon

Congresswoman Nydia M. Velázquez

State Senator Brian Kavanagh

State Senator Zellnor Y. Myrie

State Senator Andrew Gounardes

State Senator Velmanette Montgomery

Assembly Member Robert Carroll

State Senator Julia Salazar

Assembly Member Joseph Lentol

Council Member Brad Lander

Council Member Carlos Menchaca

Council Member Justin Brannan

Council Member Antonio Reynoso

cc: Roberta Reardon, New York State Department of Labor Commissioner

Melissa DeRosa, Secretary to New York State Governor Andrew Cuomo

Johnathan Smith, Deputy Secretary for Civil Rights and Workforce

