

Ain't No Sunshine:

Fewer than One in Eight Unemployed Workers In Florida Is Receiving Unemployment Insurance

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Executive Summary

Over the past four years, Florida has imposed a series of new claims-filing requirements and procedures that have made it more difficult for involuntarily unemployed workers to apply and qualify for unemployment insurance (UI). As a consequence of procedural hurdles and drastic cuts in available benefit weeks, fewer than one in eight unemployed Floridians is currently receiving unemployment insurance, the lowest rate in the nation. This downward trend has accelerated since the introduction of a new automated filing system known as CONNECT in the fall of 2013.

Electronic filing requirements, some of which were included in state legislation enacted in 2011, have made the process of establishing UI eligibility in Florida among the most onerous in the country. Immediately after implementation of House Bill 7005 in August 2011, thousands of workers were unable to successfully complete online transactions necessary to apply and qualify for UI benefits, largely because of poor automated systems and lack of personal customer assistance. Each of these transactions could only be completed online: initial claim filing, registration with the public employment service, posting of an online resume, a 45-question math, reading, and research skills test,¹ and extensive documentation of weekly work-search activity.

In the fall of 2013, the Florida Department of Economic Opportunity (DEO) launched, to disastrous effect, a new automated filing system known as CONNECT. Tens of thousands more claimants experienced benefit delays of two to four months, prompting the Secretary of Labor to intervene and order corrective action necessary to get benefits paid. Major problems

with the design and testing of the new CONNECT system have been the subject of legislative hearings and a state audit. CONNECT is more complex and requires more individualized adjudications than the prior filing system. As a result, Florida has been among the slowest states in the nation in determining the eligibility of unemployed workers who apply for UI benefits.

Since 2011, the Florida unemployment insurance program has made it more difficult for workers to receive benefits following involuntary job loss. Key indicators of this trend include the following findings:

- Only 12 percent of Florida's unemployed received unemployment insurance in the 12-month period ending June 30, 2015. That rate is tied with South Carolina for the lowest of all 53 jurisdictions administering unemployment insurance programs. The national average is 27 percent. Reciprocity in Florida dropped from 16 to 12 percent in the eighteen months following the launch of CONNECT.
- Between 2010 and 2014 (a period in which Florida's unemployment rate dropped from over 11 percent to 5.7 percent), the number of claimants who were disqualified for reasons not related to the separation from their job increased by more than 180 percent. Most of that increase was because claimants did not satisfy a procedural reporting requirement or because the state found that they were not "able and available" for work or did not meet requirements for online documentation of employment registration or work search.
- The number of workers disqualified because DEO found they were not "able and available for work" or not

- “actively seeking work” more than doubled in the year following the launch of CONNECT, even though weekly claims declined by 20 percent in that same year.
- The number of workers who have been disqualified for not satisfying procedural reporting requirements has quadrupled since online filing was mandated in August 2011, despite the fact that fewer than half as many individuals are claiming benefits.
 - Only 39 percent of those Florida workers who apply for benefits ever receive a first payment, the second lowest rate in the country. Nationally, 68 percent of those

- workers applying for unemployment insurance receive UI benefits. Florida’s first-payment rate has dropped roughly 20 percentage points since 2010.
- Between calendar years 2010 and 2014, new claims for benefits in Florida declined by 44 percent compared to 32 percent nationally. During that same period in which there were comparable declines in state and national unemployment rates, first UI payments declined by 62 percent in Florida compared to 35 percent nationally.

Background: House Bill 7005 Cuts Benefits and Imposes Unfair Filing Obstacles

In 2011, the Florida legislature enacted, and Governor Rick Scott signed into law, a series of major changes to the state’s unemployment insurance program (HB 7005). These changes made it more difficult for unemployed workers to access, qualify for, and maintain benefits, and decreased the duration of benefits qualified unemployed workers were eligible to receive. The law imposed new barriers to benefit eligibility and expanded benefit disqualifications.

As background, UI claimants must meet certain requirements to initially qualify for weekly benefits and to remain eligible on an ongoing basis, throughout their unemployment spell. The first two components of UI eligibility are (1) establishing monetary entitlement by having enough recent wages to meet state minimum earnings requirements, and (2) being involuntarily unemployed (in other words, the claimant’s job separation was not for a reason that is disqualifying under state law, e.g., discharge for misconduct, or voluntary leaving without cause). After these two conditions have been satisfied, claimants must establish that they are able to work, available for work, and actively seeking work during each week they are claiming benefits. It is in these “continuing eligibility” conditions, in particular, where there is considerable variation among states in terms of how they measure such concepts as adequacy of labor market attachment and work search.

Like most other states, Florida’s unemployment trust fund borrowed from the federal government in order to pay benefits during the Great Recession. In response to increased federal unemployment taxes on business, Florida enacted major unemployment insurance legislation in 2011 aimed at reducing benefit payouts. Among the major changes enacted in Florida by HB 7005 were the following:

- Requiring that all benefit claims must be filed electronically;
- Requiring all UI applicants to complete an online “Initial Skills Review” test in order to be eligible for benefits;
- Requiring all UI recipients to contact five employers per week, and to report those contacts to the state agency, to maintain eligibility;²
- Replacing the maximum benefit duration of 26 weeks with a sliding scale tied to the state’s unemployment rate, ranging from 23 weeks when the rate is 10.5 percent or higher, down to as few as 12 weeks when the rate drops below 5.5 percent;³
- Expanding the definition of disqualifying misconduct; and
- The unemployment insurance program itself was re-named “Reemployment Assistance”.⁴

Florida’s adoption of a mandatory online claim-filing system and virtual elimination of filing by telephone, long the primary method of filing, disenfranchised thousands of UI claimants who could not successfully navigate the complex and unwieldy online application. The electronic transactions associated with claim-filing took the average computer-fluent claimant 30 minutes to complete, and more than an hour when coupled with a required initial skills review exam.⁵ Those affected included individuals with literacy deficits, limited English proficiency, mental and physical disabilities, and limited experience with computer technology. Indeed, workers from all backgrounds faced greater process obstacles to establishing UI eligibility than in any other state.

Limited-English-proficient (LEP) persons and people with disabilities were effectively denied access to UI

benefits under the new system. On April 5, 2013, the U.S. Department of Labor's Civil Rights Center (CRC) issued a 56-page initial determination in Miami Workers Center v. Florida Dept. of Economic Opportunity, Division of Workforce Services (CRC Complaint No. 12-FL-048), finding the state's electronic filing system for UI benefits had a discriminatory effect on LEP persons and persons with disabilities in violation of Title VI of the Civil Rights Act, section 504 of the Rehabilitation Act, Title II of the Americans With Disabilities Act, and section 188 of the Workforce Investment Act (WIA). Based on these violations, the CRC concluded Florida must take certain corrective actions or face sanctions that could include termination of federal UI administrative funding. To date, Florida has not entered into any form of compliance agreement to institute necessary corrective actions. Florida imposed a series of eligibility conditions that required claimants to complete additional online transactions to establish or maintain UI eligibility. As with the basic online initial claim, each of these transactions

was made more difficult by the lack of staff assistance available to claimants trying to navigate each new electronic requirement. The additional online transactions included the following:

- An initial skills assessment consisting of a 45-question test to be completed online as part of the initial claim process; (Note: In 2014, the Florida Legislature acted to make the skills assessment voluntary and removed participation in the assessment process as a condition of benefit eligibility. See HB 7023.⁶)
- A requirement that UI claimants register for work electronically on the "Employ Florida Marketplace" as a condition of benefit eligibility, including completion of a "background wizard" (another detailed online application in order to qualify for a first benefit payment) and an online resume; and
- Detailed documentation of five employer contacts per week on weekly claim certifications filed electronically as a condition of weekly eligibility.⁷

New Filing Requirements Drive Down Applications and First Payments

Collectively, all of these requirements resulted in disproportionately fewer unemployed workers applying for and receiving UI benefits. Both new applications for UI benefits by persons recently unemployed, known as initial claims, and first benefit payments in Florida experienced disproportionate declines relative to national levels, despite comparable improvements in rates of unemployment.

From the 12 months ending July 2011 to the same period ending July 2012, average weekly new state UI initial claims in Florida declined by 23 percent, while average weekly state UI first payments dropped by an even greater 40 percent. By comparison, new initial claims and first payments nationwide experienced respective declines of just 9 and 10 percent over the same period.⁸

Cumulatively, the impact of these changes appears to have endured. Despite a decline in unemployment very comparable to the national trend line, Florida has seen substantially steeper declines in all measures related to unemployment insurance claims-filing and receipt. Between calendar years 2010 and 2014, new claims for benefits in Florida declined by 44 percent compared to 32 percent nationally. During that same period, first UI payments declined by 62 percent in Florida compared to 35 percent nationally. And while average weekly continuing claims dropped by 42 percent nationally, the decline in Florida was 62 percent (see Table 1 below).

Table 1. Average Weekly State UI Claims in Florida and the United States (in thousands), 2010 and 2014

	New Initial Claims	First Payments	Continuing Claims
Florida			
2010	17.4	9.8	218.9
2014	9.8	3.7	84.2
% change	-44%	-62%	-62%
United States			
2010	276.6	199.5	4,484.2
2014	189.2	129.9	2,589.4
% change	-32%	-35%	-42%

Source: NELP calculations of U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 5159 Report, Claims and Payment Activities data. Figures cover State UI benefits.

Since 2011, Disqualifications Based on Weekly Filing Requirements Have Skyrocketed

Since 2011, there has been dramatic growth in disqualifications based on claimants not satisfying a procedural reporting requirement or requirements for online documentation of employment registration or work search. Table 2 below shows the number of UI applicants in Florida who were denied benefits for reasons relating to nonmonetary requirements between 2010, the last full calendar year before HB 7005 took effect, and 2014, the last full calendar year for which there is data.

The upper half of the table shows denials by year for nonmonetary reasons unrelated to a claimant’s separation from work (e.g., a claimant earned other income while claiming benefits, was found to be unavailable for work, or work search was deemed inadequate); the lower half shows denials by year for separation-related reasons (e.g., a claimant voluntarily quit a job without good cause).

The number of workers who have been disqualified because DEO found that they were not able and available for work or because they failed to comply with the state’s “actively seeking work” standard has more than tripled since 2010, and has more than doubled in the year following implementation of the CONNECT system, from 2013 to 2014.

The number of workers who have been disqualified for purely procedural reasons (see “Reporting Requirements” section in Table 2 below) has increased by more than 300 percent since online filing was mandated in August 2011. In 2010, the last full year before the changes, fewer than 18,000 claimants were denied benefits for failing to meet reporting requirements. Last year, more than 75,000 Floridians were disqualified for process reasons, despite the fact that the number of individuals claiming benefits declined by more than half over the same period.

During a period in which Florida’s unemployment rate dropped from over 11 percent to 5.7 percent, the annual number of disqualifications related to reasons other than separations increased by roughly 172,000 (or by more than 180 percent), and most of that increase (roughly 152,000 disqualifications last year) was because claimants did not meet a procedural reporting requirement or submit adequate documentation of employment registration or work search. Finally, in 2014, the number of denials for reasons related to work-search and procedural reporting requirements exceeded the total number of state UI first payments (approximately 213,100 denials compared to approximately 193,400 first payments).

Table 2. Nonmonetary Denials by Reason in Florida (in thousands), 2010 to 2014

	2014	2013	2012	2011	2010
Able, Available, or Actively Seeking Work	137.7	62.4	75.6	79.8	43.9
Disqualifying or Deductible Income	18.5	21.8	29.1	10.7	2.6
Refusal of Suitable Work	0.4	0.5	0.7	0.7	0.8
Reporting Requirements	75.5	105.9	84.0	48.7	17.6
Refusal of Worker Profiling Referrals	10.2	3.3	1.6	4.0	3.1
Other	23.0	8.7	11.1	13.7	25.4
Total Nonseparation Denials	265.3	202.5	202.0	157.6	93.5
<i>% change from year ago</i>	31%	0.3%	28%	69%	7%
Voluntary Leaving Work	54.5	40.0	53.0	64.8	86.4
Discharge for Misconduct	30.7	32.9	44.7	53.5	60.5
Total Separation Denials	85.3	72.9	97.7	118.3	146.9
<i>% change from year ago</i>	17%	-25%	-17%	-20%	-15%
Total Nonmonetary Denials	350.6	275.4	299.7	275.9	240.4
<i>% change from year ago</i>	27%	-8%	9%	15%	-8%
Average Weekly New Initial Claims	9.8	10.5	11.8	13.7	17.4
<i>% change from year ago</i>	-6%	-11%	-14%	-21%	-13%
Average Weekly Continued Claims	84.2	105.3	126.3	158.8	218.9
<i>% change from year ago</i>	-20%	-17%	-20%	-27%	-24%

Source: NELP calculations of U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 207 Report, Nonmonetary Determinations Activities, and 5159 Report, Claims and Payment Activities data. Figures cover State UI benefits.

Implementation of CONNECT Accelerates Already Steep Declines in Eligibility and Reciprocity

In October 2013, Florida launched a new UI website and claims-filing system, known as CONNECT, that resulted in months-long delays in benefit payments to tens of thousands of unemployed Floridians.⁹ These delays ultimately prompted the U.S. Department of Labor to order that Florida DEO institute necessary corrective actions and system modifications to begin making timely payments.¹⁰ Major problems with the design and testing of the new CONNECT system have been the subject of legislative hearings and a state audit.¹¹

In the 18 months after CONNECT went live (October 2013 through March 2015), Florida ranked second to last nationally (just ahead of North Carolina) in meeting a core UI program performance measure known as first-payment timeliness.¹² This measure captures the percentage of benefit payments issued to claimants within 14 days after the first compensable week of unemployment.¹³ The federal standard is 87 percent; in the 18 months from October 2013 to March 2015, just over 64 percent of Florida first payments were issued within the recommended time frame.

In the year following implementation of Florida’s CONNECT system, from 2013 to 2014, the number of benefit denials resulting from nonmonetary determinations (unrelated to separations) increased by 31 percent (or by roughly 62,800), despite the fact that state UI new initial claims decreased by a little more than 6 percent,

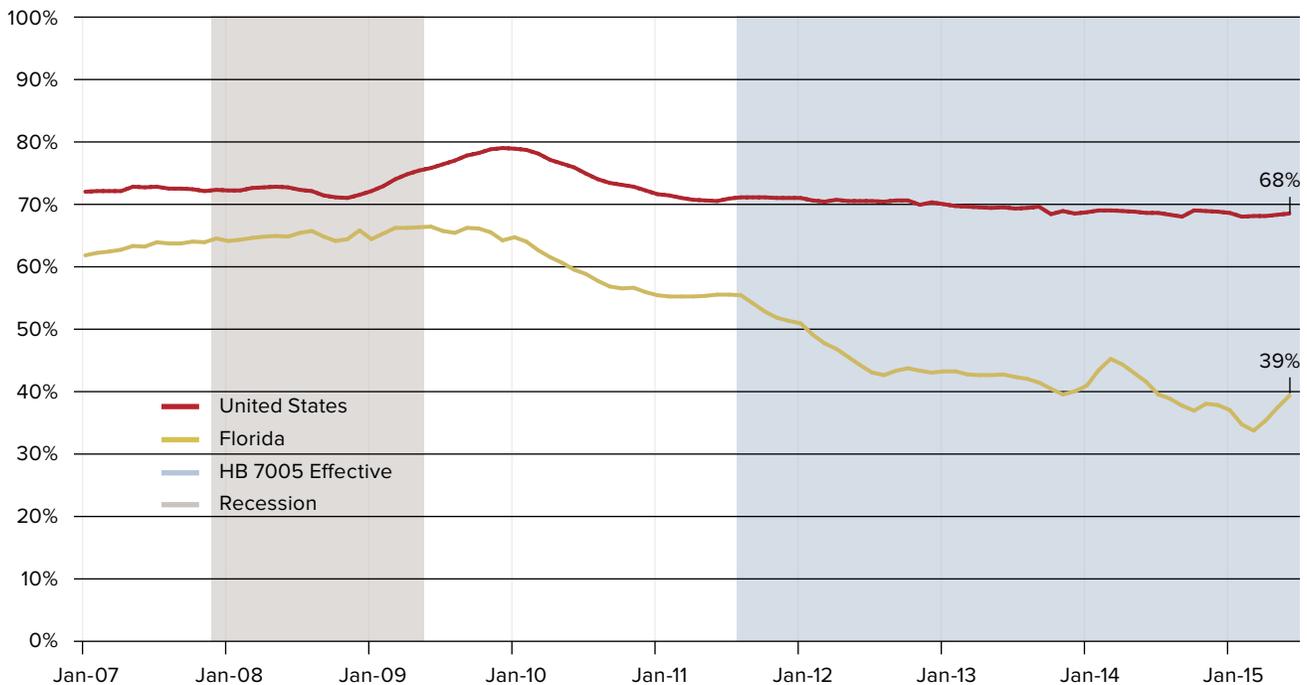
first payments decreased by 12 percent, and weekly claims fell by 20 percent (see Table 2, row titled “Total Nonseparation Denials”). Most notably, denials for reasons related to availability for work and work search more than doubled following the launch of CONNECT, increasing from about 62,400 to 137,700.

Fewer than Four in Ten Applicants for Unemployment Insurance in Florida Ever Receive a UI Payment

A major reason that Florida has the lowest UI reciprocity rate in the nation is that more than 6 in 10 workers who apply for benefits are disqualified before ever receiving a single week of benefits. Figure 1 below shows first benefit payments as a proportion of new initial claims in Florida and the United States since shortly before the Great Recession began in the final quarter of 2007. The figures shown are 12-month averages. In the year ending June 2015, of those Florida workers who applied for benefits, only 39 percent ever received a first payment, compared to 68 percent nationally. (This actually

represents an increase from an earlier 12-month period ending March 31, 2015 when only 34 percent, or one in three Florida claimants, received a first payment—an all-time state low.) Thus, while two out of three unemployed workers who apply are eligible for UI nationally, more than 6 in 10 Florida applicants are denied benefits without ever receiving a first payment. Florida’s first-payment rate is second lowest in the nation (a percentage point above South Carolina) and has dropped 20 percentage points since a comparable period in 2010.

Figure 1. Percentage of New Initial Claims Resulting in First Payments in Florida and the United States, January 2007 to June 2015



Source: NELP calculations of U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 5159 Report, Claims and Payment Activities data. New initial claims and first payments cover state UI benefits, UCX, and UCFE. Figures are 12-month moving averages to account for seasonality.

Fewer than One in Eight Unemployed Workers in Florida Is Receiving Unemployment Insurance

Fewer than one in eight unemployed workers in Florida is receiving unemployment insurance. Figure 2 below shows the shares of all unemployed workers in Florida and the United States who received UI benefits in each quarter since the beginning of 2007. The figures shown are 12-month averages. Only 12 percent of Florida's unemployed received unemployment insurance in the year ending June 30, 2015. That rate is tied (with South Carolina) for the lowest in all 53 jurisdictions administering unemployment insurance programs. For the most recent quarter alone (not shown in the figure), Florida's reciprocity rate dropped to just below 11 percent.¹⁴

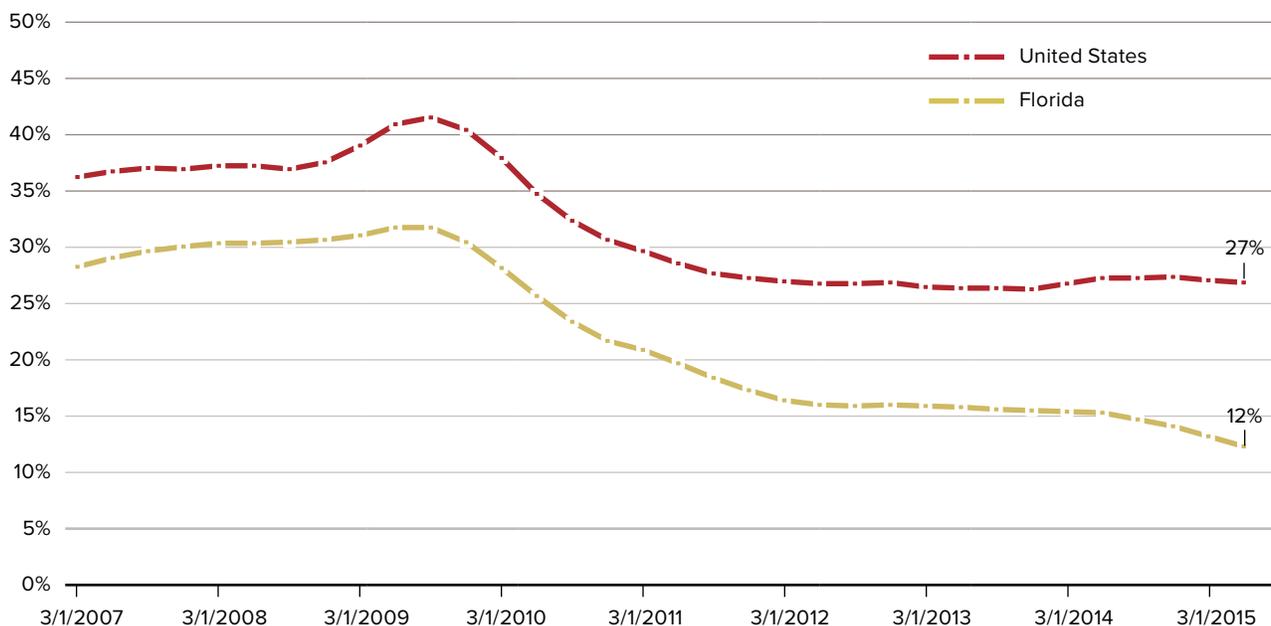
UI reciprocity in Florida has trailed the national average since before the start of the Great Recession. For instance, Figure 2 shows that reciprocity in Florida and the nation each hit a high point shortly after the declared end of the recession in 2009. In the third quarter of 2009, 42 percent of unemployed workers nationally received UI benefits, while that number was 32 percent in Florida for the same period. In the following five and a half years, national reciprocity declined by 15 percentage points (or 35 percent) to 27 percent. But the decline in Florida's reciprocity has been much steeper – a drop of 20 points (or

61 percent) to 12 percent. Notably, this downward trend sharpened following the launch of CONNECT in October 2013.

A portion of this low rate of reciprocity is also attributable to the fact that Florida's program now provides only a maximum of 14 weeks of benefits, tied with Georgia for second lowest in the nation.¹⁵ One consequence of having cut the scope of its program almost in half is that Florida currently has the highest UI exhaustion rate in the nation. For the most recent 12-month period for which data is available, approximately 62 percent of Florida claimants who received benefits exhausted their maximum entitlements without having found new employment.¹⁶

Clearly with almost two-thirds of those claimants who do manage to receive benefits running out of UI before they find a new job, the Florida program is not meeting the basic goal of serving as a bridge from loss of one job to securing suitable new employment.¹⁷ The 14-week maximum not only prematurely pushes jobless Floridians into the 88 percent of unemployed workers without financial protection; it also forces those same workers to accept employment that is not comparable to the jobs they lost.

Figure 2. Regular UI Weeks Claimed to Total Number of Unemployed Workers, First Quarter of 2007 to Second Quarter of 2015



Source: NELP calculations of U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 5159 Report, Claims and Payment Activities, and U.S. Bureau of Labor Statistics data. Weeks claimed cover state benefits, UCX, and UCFE. Figures are 12-month moving averages to account for seasonality.

Conclusion

Unemployment insurance is a federal-state program created by the Social Security Act of 1935. The purpose of unemployment insurance is to promptly provide partial income replacement for workers who are involuntarily unemployed so that they can meet basic financial needs while looking for new employment. Florida's program is no longer serving that purpose.

Florida has imposed a series of burdensome process requirements and technological obstacles so severe that unemployment insurance is virtually inaccessible for the average jobless Floridian seeking benefits earned through their work histories. Instead of remedying this problem, the implementation of the CONNECT system appears to have made the situation worse. And for the small share of jobless workers who do receive benefits, the limited weeks available have proven to be inadequate time for most to secure suitable new employment.

A program in which the number of disqualifications for reasons relating to availability, work search, and procedural reporting requirements exceeds the number of first payments is not unemployment insurance; it is an

obstacle course. And the steep decline in Florida initial claims over the past four years (by 44 percent compared to 32 percent nationally) strongly suggests that these obstacles are discouraging unemployed workers from filing for unemployment insurance.

The federal government funds administration of the unemployment insurance program, and federal law establishes standards with which states must comply to ensure qualified unemployed workers can access benefits¹⁸ and are not unfairly denied.¹⁹ The State of Florida is thwarting the fundamental rights of unemployed workers to apply and qualify for unemployment insurance. An insurance program that pays benefits to fewer than 4 in 10 unemployed workers who apply and fewer than one in eight jobless workers in the state can hardly be called insurance. Unemployed Floridians struggling to make ends meet until they get that next job deserve a UI system that is fair and accessible. The Social Security Act was intended to hold state unemployment insurance programs to standards of fairness and accessibility. There should be no exception for Florida.

Endnotes

1. In 2014, the Florida legislature amended the law to make the initial skills review voluntary and to remove it as a condition of eligibility for unemployment insurance. See CS/HB 7023 (2014).
2. This requirement was modified in 2012 to require contact with only three employers in smaller Florida counties (Fla. Stat. 443.091(1)(e)6.)
3. Under this formula, the current maximum duration of unemployment insurance in Florida is 14 weeks.
4. For purposes of this report, we will refer to the Florida program as unemployment insurance.
5. "Getting Unemployment Check in Florida Frustrating Ordeal for Many," St. Augustine Record, August 22, 2012, available at http://staugustine.com/news/local-news/2012-08-22/getting-unemployment-check-florida-frustrating-ordeal-many#.Vfl_3RFVhBe. See also Letters of Complaint to U.S. Secretary of Labor Hilda Solis from Florida Legal Services and National Employment Law Project, dated May 18, 2012 and October 1, 2012.
6. Ch. 2014-218. Section 19 amending Section 443.091 (c)(1) Florida Statutes.
7. For claimants unable to make the required number of employer contacts in a week, meeting with a representative at a local CareerSource Center to access reemployment services may satisfy the work search requirement for that week. For more information see <http://sitefinity.floridajobs.org/onestop/onestopdir/>.
8. U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 5159 Report, Claims and Payment Activities. Figures cover State UI benefits. Available at <http://ows.doleta.gov/unemploy/DataDownloads.asp>.
9. Frances Robles, "Faulty Websites Confront Needy in Search of Aid," New York Times, January 7, 2014, available at <http://www.nytimes.com/2014/01/07/us/faulty-websites-confront-needy-in-search-of-aid.html>. Lizette Alvarez, "Florida site said to delay millions in aid to jobless," New York Times, January 10, 2014, available at <http://www.nytimes.com/2014/01/11/us/floridas-site-said-to-delay-millions-in-aid-to-jobless.html>.
10. Michael Van Sickler, "DEO Mum on Status of Payments to Thousands of Unemployed Floridians," Tampa Bay Times, January 27, 2014, available at <http://www.tampabay.com/news/business/deo-mum-on-status-of-payments-to-thousands-of-unemployed-floridians/2162972>.
11. Michael Van Sickler, "State Audit Highly Critical of Florida's Unemployment System CONNECT," Tampa Bay Times, February 27, 2015, available at <http://www.tampabay.com/news/politics/gubernatorial/state-audit-highly-critical-of-floridas-unemployment-system-connect/2219504>. See also Report of Florida Auditor General David W. Martin, Department of Economic Opportunity: CONNECT, Informational Technology Operational Audit, Report No. 2015-107, February 2015, available at http://www.myflorida.com/audgen/pages/pdf_files/2015-107.pdf.
12. U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, State Rankings of Core Measures, First Payment Timeliness (in 14/21 days), available at <http://workforcesecurity.doleta.gov/unemploy/ranking.asp>.
13. The first-payment standard for states without a waiting week is 87 percent of first payments made within 21 days after the first compensable week.
14. U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, UI Data Summary, Second Quarter 2015, available at http://ows.doleta.gov/unemploy/content/data_stats/datasum15/DataSum_2015_2.pdf.
15. The lowest benefit maximum in the nation is offered in North Carolina, which recently lowered its maximum UI entitlement to 12 weeks for initial claims filed after July 1, 2015.

16. U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, UI Data Summary, Second Quarter 2015, available at http://ows.doleta.gov/unemploy/content/data_stats/datasum15/DataSum_2015_2.pdf.
17. Florida's weekly UI benefits are also among the least generous in the nation. The average UI payment is currently \$237 per week, and the maximum benefit level of \$275 is higher than only four other states. See UI Data Summary, Second Quarter 2015, available at http://ows.doleta.gov/unemploy/content/data_stats/datasum15/DataSum_2015_2.pdf.
18. Section 303 (a) (1) of the Social Security Act requires states to employ “(s)uch methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.”
19. Section 303(b)(1) of the Social Security Act states: “Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—
 - (1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law . . . the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply.”