



The
Legal Aid Society
of Cleveland
Since 1905

Written Testimony in Support of HB 614
Kathleen Laskey-Donovan, Senior Attorney
The Legal Aid Society of Cleveland
Ways & Means Committee
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My name is Kathleen Laskey-Donovan and I am an attorney at The Legal Aid Society of Cleveland. The Legal Aid Society of Cleveland [hereafter “Cleveland Legal Aid”] provides free legal services to low-income residents of Ashtabula, Cuyahoga, Geauga, Lake and Lorain counties in Northeast Ohio. Our mission is to secure justice and resolve fundamental problems for those who are low-income and vulnerable by providing high quality legal services and working for systemic solutions. I am co-chair of Cleveland Legal Aid’s Limited English Proficient (LEP) Committee. The LEP Committee advocates for LEP individuals to have meaningful access to government and government-funded programs and services in our community. On behalf of Cleveland Legal Aid, thank you for the opportunity to provide testimony in support of House Bill 614, to study and reform the application, processing, administration and infrastructure of Ohio’s unemployment compensation system.

Cleveland Legal Aid’s comments will focus on increasing and improving access to Ohio’s unemployment compensation (hereafter “UC”) system for LEP individuals. According to the American Community Survey’s (part of the U.S. Census Bureau) 2018 data, 7% of Ohioans spoke a language other than English in

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their home. Of the 7% who spoke a language other than English at home, Spanish was the most popular language at 2.3%.¹ Currently, the Ohio Department of Job and Family Services (“ODJFS”) offers two ways to apply for UC in Ohio: via an online portal or via a toll-free telephone number (1-877-644-6562). The online portal is only available in English, such that LEP individuals who do not know enough English to complete an online application must apply by phone where there are interpreters available to assist them. Unfortunately, during the COVID19 pandemic, ODJFS’s UC phone line has been overwhelmed due to the sheer number of individuals applying for unemployment compensation.²

English-speaking individuals have the option of applying for UC and receiving answers to questions about the status of their application through the online ODJFS portal. That same option does not exist for LEP individuals such as Cleveland Legal Aid’s client, Sonia.³ Sonia is an LEP mother of two children, who was a victim of domestic violence, and whose primary language is Spanish. Sonia lost her job when the COVID19 pandemic began impacting Ohio in March 2020. Sonia completed the online application to the best of her ability in English. When Sonia had questions about why she had not received a response to her UC application after several weeks, she called the ODJFS phone system and selected the option for Spanish. Even though Sonia chose Spanish as her language option, an English-speaking representative answered the phone. The representative told Sonia that she spoke a little bit of Spanish and would try her best to communicate with Sonia. The representative then told Sonia that no application had been filed

¹ See American Community Survey, Ohio 2018 “Selected Social Characteristics in the United States,” Table DP02, available at: <https://data.census.gov/cedsci/table?id=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP02&tid=ACSDP5Y2018.DP02&y=2018&g=0400000US39&vintage=2018>.

² See various news stories documenting applicants’ difficulty with ODJFS phone system: <https://www.news5cleveland.com/news/coronavirus/im-drowning-here-many-jobless-workers-cant-get-through-to-ohios-unemployment-system>; <https://www.daytondailynews.com/news/local/area-residents-struggle-with-overloaded-unemployment-system/tkx7GfAnZbJeqIVYqF9VLI/>

³ Name changed for confidentiality purposes.

under Sonia's Social Security Number, so the representative assisted Sonia with completing the application on the phone. Every time Sonia called back to ODJFS and chose the Spanish option on the phone system, she would wait on hold from 40-60 minutes, then would be transferred back to the English line. Eventually, when Sonia called ODJFS on May 11, 2020, an English-speaking representative told her that her application had been denied, but the representative could not provide the basis for the denial.

Ana, a second LEP Cleveland Legal Aid client, lost her job in the manufacturing industry due to the impact of the COVID19 pandemic. Ana also speaks Spanish, is a single mother, and she is a victim of crime. Ana tried to apply for UC several times through the ODJFS phone system, but she could never get through to a representative. Ana decided to try to apply for UC through the online portal with the help of her sister, since they both know a little bit of English. Ana never received any notices via mail about the status of her application, but eventually the status online showed her application was denied. Because all the content on the online ODJFS portal was in English, Ana does not know why her application for UC was denied. Ana was recently able to return to her job, though her hours are reduced. Although, fortunately, Ana now has some income, this example illustrates the difficulty an LEP person has in determining the status of their UC application in the current ODJFS system.

Title VI of the Civil Rights Act of 1964 (Title VI) requires that equal access to government-funded programs be provided to individuals with limited English proficiency.⁴ Under Title VI and its implementing regulations, recipients of federal funds, including ODJFS (because it receives funds from the U.S. Department of Labor), must provide "meaningful access" to their services for LEP individuals. State unemployment agencies additionally fall under the Workforce Innovation of

⁴ See 42 U.S.C. § 2000d and its implementing regulations, 45 C.F.R. Part 80; Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (2002).

Opportunity Act (WIOA) and are subject to regulations laid out at 29 C.F.R. Part 38.⁵ As a WIOA agency, ODJFS is required to “take reasonable steps to ensure meaningful access to each limited English proficient (LEP) individual served or encountered so that LEP individuals are effectively informed about and/or able to participate in the program or activity.”⁶ Unfortunately, the COVID19 crisis has demonstrated that LEP individuals in Ohio are not currently able to participate effectively in the UC program.

The Legal Aid Society of Cleveland urges Ohio’s legislature to reform the unemployment compensation system, so that the online application portal is available in multiple languages. At a minimum, the UC online system should be available in Spanish (in addition to English), as Spanish is the second most widely spoken language in Ohio. Assuming ODJFS makes the online UC system accessible in Spanish, it is important that the text be translated by professional translators, and not via machine translation, as machine translation is prone to errors. If the UC online system were to be accessible in at least Spanish and English, that would reduce some of the burden on the ODJFS phone system, so that it would be easier to access for speakers of other languages.

However, it is clear from our client Sonia’s experience that the ODJFS phone system also needs to be improved so that interpreters are readily available if the applicant indicates they need assistance in another language. We suggest ensuring that ODJFS staff are trained on how to use an interpreter and have ready access to telephonic interpretation services; increasing the number of phone lines; and dedicating some of those phone lines to other languages. The designation of which languages to assign to specific phone lines can be based on the population of the language speakers in Ohio, as well as ODJFS’s own data regarding in which languages applicants request service.

⁵ See 29 C.F.R. § 38.9(a) “In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, **a recipient must not, directly or through contractual, licensing, or other arrangements, discriminate on the basis of national origin, including limited English proficiency.** An individual must not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under, any WIOA Title I-financially assisted program or activity based on national origin.” (emphasis added) available at: <https://www.govinfo.gov/content/pkg/CFR-2017-title29-vol1/xml/CFR-2017-title29-vol1-part38.xml>

⁶ See 29 C.F.R. § 38.9(b).

COVID19 has shone a spotlight on the weaknesses in our unemployment compensation system, including the lack of access for LEP individuals. The Ohio General Assembly has the opportunity to reform the UC system so that the state is better prepared for the next time of crisis. The Legal Aid Society of Cleveland urges the Ohio General Assembly to take advantage of that opportunity. Thank you.