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United States Senate
WASHINGTON, DC 20510-4806

COMMITTEES:
FINANCE
BANKING, HOUSING, AND
URBAN AFFAIRS
BUDGET
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April 3, 2020

The Honorable Eugene Scalia
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Dear Secretary Scalia,

Yesterday, the Department of Labor released the latest number of unemployment claims around the country. The numbers are unprecedented: 6.6 million new unemployment claims this past week in addition to the 3.3 million from the week before. In a span of two weeks, more workers filed unemployment claims than the entirety of the 8.7 million jobs lost during the Great Recession. In light of the record-breaking unemployment numbers and the tremendous pressure this places on state unemployment agencies, I write to urge the Department of Labor to issue additional, more comprehensive guidance to states on implementation of the unemployment provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law No. 116-136, as quickly as possible.

The CARES Act directs states to stand up a new program, the Pandemic Unemployment Assistance (PUA) Program, to disburse benefits to workers who would normally not be eligible for unemployment assistance, such as gig workers or freelancers. Unfortunately, we are already hearing reports from unemployment officials from around the country that it will likely take weeks to stand up a new program and disburse benefits to these newly eligible workers.¹ In the middle of the COVID-19 pandemic, with unemployment claims overwhelming state systems, there is no time to waste. While I appreciate the initial round of guidance that was released yesterday, the Department of Labor should have already issued more comprehensive guidance to states this week.

¹ Romm, Tony. April 2, 2020. "Uber drivers and other gig economy workers were promised unemployment benefits. It may be a long wait." The Washington Post. Retrieved:
<https://www.washingtonpost.com/business/2020/04/02/uber-airbnb-lyft-unemployment-coronavirus/>

To enable the rapid implementation of the CARES Act, the Department of Labor should issue guidance on the following issues that were missing from DOL's release yesterday:²

1. As others have stated, the Pandemic Unemployment Assistance process should be streamlined as much as possible. Streamlining could include the removal of burdensome regulatory barriers normally applicable under the Disaster Unemployment Assistance program that limit worker participation.
2. Given the present Center for Disease Control and Prevention's public health recommendation urging individuals to stay home, states should be required to accept electronic documentation submissions and have the flexibility to make determinations on eligibility for the program on a case by case basis.
3. The Department of Labor should be taking the lead on innovative technological solutions that relieve the burden on states to recreate the wheel on their own. As others have noted, vendors with cloud-based solutions for PUA processing could streamline the process for state unemployment agencies.
4. States should have increased flexibility to calculate weekly benefit calculation for part-time workers in a way that takes into consideration the expansion of part-time work in the gig economy. They should also be given the flexibility to determine wages using alternative forms of wage information other than state tax returns and be encouraged to disburse benefits while processing documentation.

Ensuring swift, and effective, implementation of section 2102 of the CARES Act will require that both the federal government and states to be nimble, and act swiftly, to shore up the critical social safety net for all American workers. It is paramount that people who normally would fall through the cracks of the current system, like gig workers and freelancers, get needed support as quickly as possible as the country weathers the economic downturn caused by the COVID-19 pandemic. I'm hopeful that, long-term, we will learn something from this about supporting worker benefits in ways that can improve our public health and make our economy more resilient.

² The following recommendations were also sent to the Department of Labor by Michelle Evermore (National Employment Law Project), Kali Grant (Center on Poverty and Inequality at Georgetown Law School), Andrew Stettner (Century Foundation), and Melissa Boteach (National Women's Law Center) on April 1, 2020.

Again, I urge you to issue more comprehensive guidance on the implementation of the CARES Act as quickly as possible. Thank you in advance for your prompt attention to this matter. I look forward to working with you on your next steps.

Sincerely,

A handwritten signature in blue ink that reads "Mark R. Warner". The signature is written in a cursive, slightly slanted style.

Mark R. Warner
United States Senator