Memo

To: Department of Labor

From: TELI Team Oak: Barbara Cohn, Jessica Rossman, Mimi Liu, Ossama Alami,
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CC: White House

Date: November 6, 2020

Re: Policy As Code: Enabling Improvements for More Timely Delivery of
          Unemployment Insurance (UI)

This paper discusses recommendations for improving the delivery of unemployment assistance regulated at the federal level and implemented at the State level. Particular focus is on enhancing collaboration and communication between the federal government and the states. The full report[1] and presentation slides[2] are also available.

Unemployment assistance has been a social safety net since enactment of the Social Security Act in 1935. In March 2020, as unemployment spiked to unprecedented levels due to COVID-19, Congress looked to unemployment assistance to address the crisis. Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), authorizing States to implement three new federally funded programs.

The timely delivery of benefits was complicated by several factors, including the unprecedented surge in claims, change in the nature of work (e.g., "gig economy"), and inflexibility of legacy systems. Another significant factor was the complexity of the new programs, and ambiguity in the numerous implementation guidance documents issued by the federal government to the states.

"Policy as Code" is recommended to help close the gap between passage of legislation and implementation. DOL would issue guidance as "code" – directly implementable logic – rather than through natural language which is open to divergent interpretations. That is, in a language specifically designed for the elimination of logical ambiguity for specific sections of legislation which can be coded, as an example, as "if....then".

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[1] https://docs.google.com/document/d/16hxFtXfBqsQazzgck1CTLK0iibala77p40OngXf1NkU/edit#
[2] https://docs.google.com/presentation/d/1fiDuclz41je1B6iHm9e9PcXBCD2N77s7Y6FsGg2ZKZg/edit#

Consider Pandemic Unemployment Assistance (PUA) which states that benefits only be paid to claimants not eligible for regular UI benefits (i.e.gig workers). This was interpreted and/or applied by many states in unintended ways. That is, many states required applicants to first apply for regular benefits and be denied prior to applying for PUA (i.e., demonstrating ineligibility for regular benefits). This resulted in confusion and significant delays.

To avoid these types of misinterpretations and/or misapplications, Policy as Code provides underlying logic for a unified application. It would encode the logic dictating eligibility and the corresponding benefit amount (e.g.,Turbo Tax), without further interpretation by the State or the applicant.

"Policy as Code" facilitates, rather than replaces, communication. To be successful, it should be a joint effort between the DOL and the States. The following rollout strategy is recommended to enable collaboration:
  - Hackathon: Event where the States and DOL get together with the goal of creating functional end-to-end implementations within a short time.
  - Multi-State Council: Several states and DOL work together to assess output from hackathon and make recommendations.
  - Reference Implementation: Initial version known to work for a select set of States. Serves as a proof of concept, and can be leveraged by other States.

Multiple criteria have been identified including: reducing the time for an applicant to receive benefits from the time of application and, as practicable, measuring implementation time of legislation against a baseline.

This work is motivated to improve the delivery of services to those most in need, and provide an additional set of tools to the federal and state governments. The recommendations provide a framework where processes can evolve to adjust to changes and circumstances - in crisis and non-crisis.