

**VERIFICATION OF LAWFUL PRESENCE
ANNUAL COMPLIANCE REPORT
CALENDAR YEAR 2008**

COLORADO REVISED STATUTES—TITLE 24, ARTICLE 76.5

Submitted to the Colorado Senate and House of Representatives
State, Veterans, and Military Affairs Committees

*Prepared by the
Colorado Department of Labor and Employment
Unemployment Insurance and Workforce Development Programs*

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OVERVIEW

Effective August 1, 2006, House Bill (HB) 06S-1023 became law by amending Title 24 of the Colorado Revised Statutes and enacting Article 76.5, Restrictions on Public Benefits. This statute requires each state agency or political subdivision providing “state or local public benefits” to require persons 18 years of age or older to provide proof that they are lawfully present in the United States prior to receipt of public benefits. The law defines state or local public benefits by referring to U.S. Code 8, Section 1621.

This statute also requires a person applying for benefits to sign an affidavit stating that he or she is a U.S. citizen or legal permanent resident. The law prohibits state agencies or political subdivisions from providing benefits that are in violation of this statute. This statute establishes reporting requirements, and each state agency is required to subscribe to the U.S. Department of Homeland Security’s Systematic Alien Verification for Entitlements (SAVE) Program.

DEPARTMENT PROGRAMS IMPACTED BY THE STATUTE

The Colorado Department of Labor and Employment (CDLE) administers the following programs that provide state public benefits.

Workforce Investment Act Program. The federal Workforce Investment Act (WIA) of 1998 requires states to design and manage training and employer programs at the local government level where the needs of businesses and individuals are best understood. Through the WIA Program, individuals receive core services, such as outreach, initial assessment of skills and needs, and job-search and placement assistance. Through one-stop centers, eligible individuals also receive access to intensive services such as comprehensive assessments and development of individual employment plans, and to training services such as occupational-skills training and on-the-job training.

Trade Adjustment Assistance Program. The Trade Act of 1974 provides benefits to workers who lose their jobs, whose hours of work and wages are reduced because of increased imports, or whose jobs were exported offshore (“trade-affected workers”). Trade adjustment assistance (TAA) benefits include a variety of reemployment services designed to help trade-affected workers prepare for and obtain suitable employment. Workers may be eligible for training, a job-search allowance, a relocation allowance, health-coverage tax credit, alternative trade adjustment assistance for workers over the age of fifty, and other reemployment services.

Unemployment Insurance (UI) Program. A 1937 legislative declaration by the Colorado General Assembly provided that the purpose of CDLE’s UI Program is to provide economic security and stability to the citizens of Colorado by safeguarding the income and purchasing power of the unemployed worker. The UI Program provides temporary and partial wage replacement to workers who have become unemployed through no fault of their own. The program is funded by employer paid taxes and provides benefits to those who meet the eligibility requirements of the Colorado Employment Security Act.

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VERIFYING LAWFUL PRESENCE

Verification of Immigration Status

Workforce Investment Act and Trade Adjustment Assistance Programs

To comply with the requirements of HB 06S-1023, CDLE issued a policy letter on August 1, 2006, mandating verification of immigration status through the federal SAVE Program. This policy was implemented by staff in the statewide system of local workforce centers, which are the providers of WIA and TAA services. In addition, CDLE conducted an optional 6-month pilot project at the state level to verify the license or identification (ID) for WIA and TAA applicants with the Colorado Department of Motor Vehicle's (DMV's) database. Because CDLE did not identify any invalid IDs during the pilot project, and because resources were not provided through legislation for full-time employees at the state level or for automation of the DMV match, the DMV-verification pilot project was suspended after six months. There have been no denials of services for the WIA and TAA programs based on immigration status since the implementation of HB 06S-1023 implementation.

Unemployment Insurance Program

Only U.S. citizens and certain aliens are eligible to receive UI benefits. Prior to the implementation of this statute, the UI Program asked claimants if they were U.S. citizens. If the response was "No," then claimants were required to provide their alien permit number. The UI Program verifies immigration status by using the federal SAVE Program. If the UI Program cannot verify immigration status via SAVE, follow up with claimants is completed. Claimants **are denied** UI benefit payments if counterfeit documentation is submitted, claimants are not lawfully admitted for permanent residence or are not lawfully present for purposes of performing services, or requests for additional information—such as valid work-authorization documentation, birth certificates, or marriage licenses—are ignored.

Verification of Immigration Status	01/2008–12/2008
Number of claims filed where the claimants are not U.S. citizens	8,934
Number of inquiries of claimants' immigration status through the SAVE Program	8,934
Number of claimants who required a secondary inquiry of their immigration status through the SAVE Program	1,704
Number of nonmonetary determinations pertaining to immigration status	1,373
Number of claimants denied UI benefits	693 (7.8%)

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Addressing New Requirements

Workforce Investment Act and Trade Adjustment Assistance Programs

To comply with HB 06S-1023, the following processes were implemented as part of determining eligibility for the WIA or TAA Programs:

- Obtain one of the required forms of ID authorized by the statute.
- Require the WIA or TAA applicant to complete an Affidavit of Immigration Status.
- Check the type of ID the applicant possesses, and obtain the ID number and expiration date.
- Require the applicant to sign an affirmation statement stating they understand that lawful presence in the U.S. will be verified through the SAVE Program before workforce-program services can be provided. They also affirm that they are U.S. citizens, legal permanent residents, or are otherwise lawfully present in the U.S.

If applicants do not possess one of the forms of ID or do not provide the requested information, services are denied. Provision of services is contingent on applicants providing the required documents and signing the Affidavit of Immigration Status, plus the successful verification of immigration status through the SAVE Program.

Additional information regarding HB 06S-1023 policies and processes is contained in Policy Guidance Letter #06-07-WIA, on the CDLE Web site at www.coworkforce.com/PGL/pgl/PGL0607WIAGuidelinesHB1023.pdf and www.coworkforce.com/PGL/SupportingDocuments/PGL0607WIAHB1023attach1.doc.

Number of Persons Receiving WIA or TAA Services	01/2008–12/2008
Number of WIA applicants receiving services	9,262
Number of TAA applicants receiving services	936
Number of applicants denied services	0

Unemployment Insurance Program

In addition to the aforementioned measures that the UI Program was already undertaking to verify the immigration status of claimants prior to HB 06S-1023, the UI Program implemented the following processes and automation enhancements in August 2006 and January 2008 to address the statute’s requirements.

August 2006

Existing Form UIB-1, Claim for Unemployment Insurance Benefits, (Claim for Benefits) was modified to:

- Advise claimants they **must** possess one of the forms of ID listed in the new statute.
- Request claimants to check the type of ID they possess, and provide the ID number and expiration date.

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NOTE: If claimants do not indicate that they possess one of the forms of ID or do not provide the requested information, UI benefit payments are denied until all necessary information is received.

- Include an affirmation statement to be signed by claimants stating they understand that their lawful presence in the U.S. will be verified before UI benefit payments are issued. They also affirm that they are U.S. citizens, legal permanent residents, or are otherwise lawfully present in the U.S.

Beginning September 18, 2006, 100 claimants who indicated they possess and provided information regarding a Colorado driver's license or ID on their Claims for Benefits are randomly selected each week for verification purposes. The UI Program accesses the Colorado DMV's database to attempt to verify the license or ID number provided by claimants. Because various circumstances may identify a license or ID number as invalid—such as a suspended or revoked license—and the DMV is not willing to provide additional information on their inquiry screen, UI benefit payments **are not denied** if numbers cannot be validated through the DMV.

Verification through DMV	01/2008–12/2008
Number of inquiries	5,200
Number of licenses or IDs that were not valid	227 (4.4%)
Number of claimants denied UI benefits	0

January 2008

Computer programming was completed and the Claim for Benefits was again modified to:

- Store an indicator that a signed Claim for Benefits was received.
- Store the Colorado driver's license and ID numbers provided by claimants.
- **Deny** UI benefit payments on claims filed on or after January 24, 2008, for the entire benefit year if the Claim for Benefits is not received.

NOTE: UI benefit payments are allowed as of the week the signed form and/or required documentation is received if the claimant is otherwise entitled to receive the payments.

Claimants who stopped requesting their UI benefit payments for a period of time may resume activity on their claim. The potential exists that some of these claimants did not sign their Claim for Benefits or did not return the document within seven days after they requested their first benefit payment. The UI Program researches these claims, and either resolves the issues or provides the claimants with another opportunity to submit a signed Claim for Benefits.

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Signed Affirmation Statements	01/24/2008– 12/31/2008
Number of claims filed	131,494
Number of claimants who had a hold placed on their benefit payments because signed affirmation statements were not received when they submitted their first payment request	25,955 (19.7%)
Number of claimants denied benefit payments for their entire benefit year because their signed affirmation statements were not received	5,976 (4.5%)
Number of claimants receiving benefits upon receipt of signed affirmation	3,338 (2.5%)

FUTURE ENHANCEMENTS

The UI Program will pursue the possibility of purchasing a new scanning/imaging system. The new system will detect the presence of a signature. If a signature is not detected, claimants can be automatically sent correspondence requesting they sign the Claim for Benefits. This new process will eliminate the current manual process to return the Claim for Benefits to the claimant.