

VERIFICATION OF LAWFUL PRESENCE
ANNUAL COMPLIANCE REPORT
CALENDAR YEAR 2020

COLORADO REVISED STATUTES—TITLE 24, ARTICLE 76.5

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



Prepared in compliance with Colorado Revised Statutes Title 24, Article 76.5

by staff of the Colorado Department of Labor and Employment

January 15, 2021

COLORADO REVISED STATUTES—TITLE 24, ARTICLE 76.5 REPORTING REQUIREMENTS

Pursuant to Colorado Revised Statutes 24-76.5-101, et seq., the Colorado Department of Labor and Employment is required to provide the status of its compliance with the requirement to verify the lawful presence of individuals 18 years of age and older who apply for local, state, or federal public benefits. No later than January 15, 2021, this report must be submitted to the Senate and House committees on State, Veterans, and Military Affairs.

This report complies with this requirement.

PART I. STATUTE AND PROGRAM OVERVIEW

Colorado Revised Statutes—Title 24, Article 76.5

This statute requires each state agency or political subdivision to verify that each individual 18 years of age or older who applies for “state or local public benefits” provide proof of being lawfully present in the United States (U.S.) prior to the 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 that an individual applying for benefits sign an affidavit affirming that he or she is a U.S. citizen, a legal permanent resident, or otherwise lawfully present in this country. 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, a Citizenship and Immigration Services Website.

Colorado Department of Labor and Employment

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

Workforce Innovation and Opportunity Act and Wagner-Peyser Programs. The Workforce Innovation and Opportunity Act (WIOA) of 2014 requires states to design and manage job training and employment programs at the local level where the needs of businesses and individuals are best understood. Individuals who are eligible for the WIOA Program receive individualized career services including comprehensive assessments, development of individual employment plans and supportive services, and access to expanded training services that incorporate occupational skills training, on-the-job training, and apprenticeships. Through the Wagner-Peyser (WP) Program and the statewide network of workforce centers, individuals receive basic career services such as outreach, initial assessment of skills and needs, and job-search and placement assistance.

Trade Adjustment Assistance Program. The Trade Act of 1974, as amended, provides benefits to individuals whose job was lost, whose hours of work and wages were reduced because of increased imports, or whose jobs were exported offshore. Trade Adjustment Assistance benefits include a variety of reemployment services designed to help these individuals prepare for and obtain suitable employment. These individuals may be eligible for job training, job-search allowance, and a relocation allowance. Individuals over 50 years of age may be eligible for Reemployment Trade Adjustment Assistance. Trade Act services are provided by the statewide network of workforce centers.

Unemployment Insurance Division. The 1937 legislative declaration by the Colorado General Assembly provides that the purpose of CDLE's Unemployment Insurance (UI) Division 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 Division provides temporary and partial wage replacement to individuals who have become unemployed through no fault of the worker and who have met the eligibility requirements of the Colorado Employment Security Act.

PART II. Verifying Lawful Presence to Determine Program Eligibility

Workforce Innovation and Opportunity Act, Wagner-Peyser, and Trade Adjustment Assistance Programs

To comply with the requirements of Colorado Revised Statutes 24-76.5-101, et seq., the Colorado Department of Labor and Employment (CDLE) first issued a policy letter on August 1, 2006, mandating verification of immigration status through the U.S. Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program. The statewide network of workforce centers, which are the providers of the Wagner Peyser (WP) Program, Workforce Innovation and Opportunity Act (WIOA), and Trade Adjustment Assistance (TAA) services, implemented this policy.

There have been no denials of services for the WP, WIOA, or the TAA Programs based on immigration status since the implementation of Colorado Revised Statutes 24-76.5-101, et seq.

The following processes were implemented as part of determining eligibility for the WIOA and TAA Programs:

Obtain one of the required forms of identification authorized by the statute.

- Require the WIOA or TAA applicant to complete and sign an Affidavit of Immigration Status, affirming that the applicant understood that lawful presence in this country will be verified through the SAVE Program before workforce program services can be provided, and that the applicant is a U.S. citizen, legal permanent resident, or is otherwise lawfully present in this country.
- Check the type of identification the applicant possesses, and obtain the identification number and expiration date.

Provision of TAA benefits was contingent upon the applicant providing the required documents and signing the Affidavit of Immigration Status plus the successful verification of immigration status through the SAVE Program.

Workforce Innovation and Opportunity Act Program Statistics	01/01/2020— 12/31/2020
Number of applicants receiving services	4,494
Number of recipients who are not U.S. citizens	179
Number of inquiries of immigration status through the SAVE Program	179
Number of applicants denied services	0

Trade Adjustment Assistance Program Statistics	01/01/2020— 12/31/2020
Number of applicants receiving services	108
Number of recipients who are not U.S. citizens	4
Number of inquiries of immigration status through the SAVE Program	4
Number of applicants denied services based on immigration status	0

Additional information regarding Colorado Revised Statutes 24-76.5-101, et seq., policies and processes related to the administration of the WIOA, and TAA Programs can be found in [Policy](#)

[Guidance Letter # WIOA/WIA-2014-02, change 3, Guidelines for Affidavit of Immigration Status](#). In addition to the guidance letter, the following attachments are also located on CDLE's Website.

1. [Affidavit of Immigration Status \(English Version\)](#)
2. [Affidavit of Immigration \(Spanish\)](#)

Unemployment Insurance Division

Under federal law and Colorado Revised Statutes 24-76.5-101, et seq., only U.S. citizens and persons lawfully present in this country are eligible to receive unemployment benefits. The following processes are followed as part of determining eligibility for the Unemployment Insurance (UI) Division.

Initial Claim

An unemployed individual (claimant) can file a new unemployment claim via the Internet or with a customer-service representative over the telephone. At the time an initial unemployment claim is filed, the claimant is always asked to attest to lawful presence or that he or she is a U.S. citizen, and acknowledge the penalties for making false statements. The attestation of legal presence or U.S. citizenship is captured on the Internet application when the new claim is filed online or recorded when the new claim is filed over the telephone with a customer-service representative.

Regular State Unemployment Insurance Claims

If the claimant files a regular state UI claim and attests that he or she is a U.S. citizen, the individual must provide the identification number and expiration date of one of the following types of identification:

- Colorado driver's license or identification card
- U.S. Military Card or dependent identification card
- Native American Tribal Document
- U.S. Coast Guard Merchant Mariner Card
- U.S. Passport
- Other state or Canadian driver's license or state identification card

If the claimant provides a Colorado driver's license or identification card number at the time the claim is filed, the identification number is added to the claim record. If the claimant attests that he or she is legally present but not a U.S. citizen, the individual is asked for his or her alien-identification number. If the claimant can provide the alien-identification number at the time of filing, it is included in the claim record.

Verification Through the Division of Motor Vehicles for Regular State Unemployment Claims

The business day following the day a claim is filed, an automated data exchange occurs between the UI Division and the Division of Motor Vehicles (DMV) to verify the Colorado identification card or driver's license number provided by a claimant. All regular state unemployment claimants who file a claim are included in the data-exchange process (regardless of the response to the citizenship question). The report returned by the DMV reflects that the Colorado identification card number or driver's license number provided by the claimant is either valid or invalid. The report also notifies the UI Division if the claimant failed to provide an identification number to be verified through the data-exchange process.

The UI Division has a secondary process in place to verify legal presence for those claimants who either provided an invalid identification card or driver's license number or did not provide one at all. For claims that were filed before March 20, 2020, those claimants were mailed a Form UIB-647, Verification of Legal Presence, requesting that he or she provide a copy of one of the acceptable forms of identification listed on the form. Each claimant must respond to this request or benefits are disallowed until such time that he or she complies with the request. This secondary process is a fully manual process and requires staff intervention to review each notice. As a result of the pandemic and the 1,100 percent increase in claim volume, the secondary process was not followed for those claimants who did not provide a valid Colorado driver's license or identification number.

Pandemic Unemployment Assistance Claims

As a result of the COVID-19 pandemic, Congress passed the Coronavirus Aid, Relief, & Economic Security (CARES) Act, which made benefits known as the Pandemic Unemployment Assistance (PUA) program available to individuals who are self-employed, independent contractors, or gig workers. The UI Division launched a separate system to file and process all PUA claims.

Verification Through Experian for Pandemic Unemployment Assistance Claims

In the PUA system, claimants were subject to questions to verify their identity via an interface with Experian. If a claimant opted out of the Experian check or failed the Experian check, an identity issue was set and claimants were then contacted by staff and required to provide valid proof of identity in order to allow their claim to pay. If a claimant indicated they were not a U.S. citizen then an issue was set and worked by staff following the standard procedure that is in place today for SAVE on the regular UI side.

Alien Status Verification Through the SAVE Program

The business day following the day a claim is filed or when an issue was set in the PUA system, a report listing the names of claimants who indicated non-U.S. citizenship is generated. Each claimant on this report who provided an alien-identification number, has his or her name; date of birth; and alien status verified through the SAVE Program by UI Division staff. If all the identifying information matches and the system does not indicate further verification is necessary, the documentation is placed in the claimant’s file and the claim continues through the process.

If the claimant failed to provide an alien-identification number, the system response to the SAVE verification indicates that any line of data does not match, or it requests further verification, a “hold” is placed on the claim to prevent payment until further information is received from the claimant. In these instances, a Form B-521, Instructions for Claimants Who Are Non-U.S. Citizens, is sent to the claimant. The form instructs the claimant to return the signed form and copies (front and back) of the alien registration card. It may also be appropriate to request a copy of a marriage certificate. The claimant must be able to provide the requested information, and it must be verifiable with SAVE before benefits will be paid.

Because of the spike in claims filed in both regular UI and PUA, UI Division staff continue to process the backlog of issues for those individuals who require SAVE verification.

Unemployment Insurance Division Statistics	01/01/2020—12/31/2020
Approximate number of initial unemployment claims filed. NOTE: A new benefit program called Pandemic Unemployment Assistance was created and the legal presence was validated on those claims. The number is included here.	1,066,961
Approximate number of unemployment claims paid	851,757 (all programs)

Verification of Legal Presence for U.S. Citizens	01/01/2020— 12/31/2020
Number of claimants whose Colorado driver's license or identification card number sent to the DMV for verification of legal presence	1,066,961
Number of claimants whose legal presence could not be verified through the initial DMV process and required a secondary inquiry	45,093
Number of claimants who returned secondary inquiry with the required proof to verify his or her legal presence	2,523
Number of claimants disallowed unemployment benefits due to the failure to provide proof of his or her legal presence	135

Verification of Immigration Status for Non-U.S. Citizens	01/01/2020— 12/31/2020
Number of claimants who required at least one inquiry of his or her immigration status through the SAVE Program	25,216
Number of claimants denied unemployment benefits based on immigration status	105