New Mexico
Workforce Connection
Central Region

Operational Policy NO. OP –436
Subject: Assistance Services to Wage Claimants
Effective: PY19, 08/19/2019

PURPOSE

This policy provides information and procedures to the Workforce Connection of Central New Mexico in providing assistance to individuals who wish to file wage claims in the Workforce Connection Centers.

REFERENCE

11.1.4.123 NMAC, Access to DWS Offices

OVERVIEW

As a staff member in a Workforce Connection Center, staff may be the first point of contact with some individuals who wish to file wage claims. Many of these individuals cannot travel to one of the Labor Relations Division (LRD) offices in Albuquerque, Las Cruces, or Santa Fe. Others do not have reliable telephone, mail, or email service where they live, and may need to use Workforce Connection centers to communicate with LRD. Although it is not WCCNM's staff job to screen, evaluate, or investigate wage claims, it is staff's job to make sure that individuals filing a wage claim feels welcome at Workforce Connection centers, and get the information and assistance they need to file their wage claims, amounting to accessing LRD services remotely.

Members of the public may use Workforce Connection Centers to access various LRD services. Workforce Connection staff provides the following services to individuals who wish to file wage claims:

- Provide a copy of a wage claim form in English or Spanish.
- Connect individuals with an LRD office to assist in completing a wage claim form by telephone.
- Submit a complete wage claim form to an LRD office.
- Give individuals access to a telephone or computer for reasons related to a wage claim, for example, to download information to support the wage claim.
- Fax wage-claim related documents from an individual to a LRD office.
- Host an LRD hearing or settlement conference, if space is available.
- Provide an individual with a copy of the Authorization to Remit Payment by Mail form, as appropriate for wage claim payments.

- Collect a check under the limited circumstances described in section (f) of this document.

This section provides guidance about how to properly serve members of the public who are seeking LRD services at a Workforce Connection Center.

PROCESS

A. Attending to wage claimants

For many Workforce Connection Center functions, it is necessary for customers to sign in with the last four digits of their social security numbers. However, individuals who wish to file a wage claim are not required to sign in or provide their social security numbers. In fact, it is unlawful to require individuals filing a wage claim to provide a social security number. When an individual of the public states that he or she is seeking assistance with a wage payment issue, it is not necessary for them to sign in.

B. Filing a wage claim

When an individual who wishes to file a wage claim comes to a Workforce Connection Center seeking assistance, please give the individual the wage claim form or connect the individual with the LRD so that they can assist in completing the wage claim form. [1] In either situation, staff may be responsible for faxing the signed wage claim form to LRD. To carry out these responsibilities, staff should take the following steps:

- Assure the individual that they have come to the right place for assistance with a wage claim.
- Explain that the first step for filing a wage claim is usually to complete a wage claim form. This form is available in English and Spanish, and you can download it from the NMDWS Wage and Hour web page. Advise the individual that they may fill it out, or may obtain assistance in filling it out by trained staff in an LRD office.
- Determine which option the individual filing a wage claim prefers:
    - If the individual wants to complete the wage claim form over the phone, give the individual a copy of the wage claim form in English or Spanish, as appropriate. Then, direct the individual to a workspace with a phone line, and have them call the Albuquerque LRD office at 505-841-4400. For individuals with Limited English Proficiency (LEP), please see subsection (g) of this Guidance Letter. The LRD staff person will complete the wage claim form and can fax it to the Workforce Connection Center as soon as the telephone conversation with the individual concludes. When staff receive the fax, have the individual sign it and fax the wage claim form back to LRD at 505-841-4424. If the individual prefers, the LRD may instead mail the wage claim form to the individual to sign and return.

[1] *11.1.4.123 NMAC, ACCESS TO DWS OFFICES: "The wage claim form shall be made available in all offices in which Department of Workforce Solutions services are administered, and claimants shall be permitted to use landline telephones or computers in such offices to communicate with the LRD for any purpose relevant to filing a wage claim."*

- If the individual wants to complete the wage claim form unassisted, give the individual a copy of the wage claim form in English or Spanish, as appropriate, and give the individual a workspace to use. Alternatively, the individual may take the wage claim form home to complete. If the individual has come to the Workforce Connection Center with a friend or relative, that person can help the individual if that is the individual's preference.
- When an individual returns a completed wage claim form, accept the form in any condition and then fax the completed form to 505-841-4424.

- After submitting the wage claim form by fax:
  - Give the individual the original wage claim form and the fax confirmation sheet.
  - Advise the individual that an LRD Labor Law Administrator (LLA) will contact them soon to follow up on the wage claim. Advise the individual that they can come back to the Workforce Connection Center anytime to use the phone, fax machine, or computer to contact the LLA assigned to their case.

Exception to claim form process: There is an exception to filling out the claim form if the individual is concerned about employer retaliation or has other confidentiality concerns (for example, if the individual is a current employee). If the individual expresses concern about these issues, advise the individual to speak directly with an LRD staff member for guidance, assist the individual to a workspace with a phone line, and advise the individual to call the Albuquerque LRD office at 505-8414400. The LRD staff person will follow the special procedures for this situation.

C. Answering other questions

A wage claimant may have questions about their wage claim or situation, such as whether they have a valid wage claim, how long the process takes, what documents should be submitted, or what the steps are in the process. Staff are not required to answer these questions, so do not attempt to do so. Instead, advise that staff are not familiar with LRD's process beyond how to file the wage claim form, but direct the wage claimant to a workspace with a phone line, and advise them to call the Albuquerque LRD office at 505841-4400. The LRD staff will assist the wage claimant with their questions.

D. Assisting wage claimants to contact the LRD offices

Wage claimants may come to Workforce Connection centers to follow up on their wage claims. Although staff cannot answer questions about the LRD process or claim status, staff should ensure the wage claimant has access to Workforce Connection Centers telephones and computers to communicate with the assigned LLA.[2] If the wage claimant needs to fax a document to an LRD office or an LLA, fax the document to the LLA for

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[2] *11. 1.4.123, ACCESS TO DWS OFFICES: "Claimants shall be permitted to use landline telephones or computers in such offices to communicate with the LRD for any purpose relevant to filing a wage claim or the investigation and enforcement of the wage claim."*

[3] *11. 1.4.123, ACCESS TO DWS OFFICES: "Administrative hearings or other LRD administrative functions may also be conducted in such offices."*

them, then return the document to the wage claimant along with the fax confirmation sheet.

E. Hearings

Sometimes, LRD may conduct hearings or settlement conferences in Workforce Connection Centers.[3] If LRD plans to use a Workforce Connection Center for this purpose, they will contact the relevant Workforce Connection Center staff to ensure a telephone, desk, or other equipment will be available. Staff should work with LRD staff to accommodate these requests.

F. Remitting money to wage claimants

In limited situations where a wage claimant has no mailing address, or P.O. Box and claims a hardship in travelling to an LRD office, a wage claimant may collect a wage payment at a Workforce Connection Center. If LRD approves this method for the wage claimant's circumstances, that wage claimant must submit an Authorization to Remit Payment by Mail to LRD. Wage claimants may come to any Workforce Connection Center to obtain this form. Staff are required to help wage claimants with this process by downloading the form from the NMDWS Wage and Hour web page and faxing the completed form to 505-841-4424. Give the original to the wage claimant along with the fax confirmation.

LRD will mail the check to the Workforce Connection Center after receipt of the Authorization to Remit Payment. Please contact (preferably by phone) the wage claimant as soon as possible after the check arrives. Store the check in a secure location in the Center.

G. Language access

The Department of Workforce Solutions will ensure equal and meaningful access for all individuals who seek the agency's assistance, and this includes those who interact with LRD. Consistent with this commitment, language assistance services will be made available to those with limited English proficiency (LEP). A person with LEP is one who does not speak English as his or her primary language and who has a limited ability to read, speak, write, or understand English. To make sure we are providing quality customer service and meaningful access to all customers at this early phase, Workforce Connection Center employees must ensure that all resources are being used to break down any language barriers that are present for participants and staff. Individuals with LEP should be treated no differently from individuals who speak English. This section explains how to provide individuals with LEP meaningful access to LRD's services at a Workforce Connection Center.

A Workforce Connection center may have a bilingual staff member who is trained to serve customers in their preferred languages, usually Spanish. When the individual with LEP seeking LRD assistance comes to a Workforce Connection Center, the bilingual staff member should generally attend to that individual. Bilingual staff members can take all of the steps below in the individual's preferred language.

- If an individual who wishes to file a wage claim is Spanish-speaking, provide the Spanish language version of the wage claim form.

- If the individual is seeking language assistance services with a letter received from LRD, the bilingual staff person does not need to call LRD, but rather may read the individual's letter in the individual's preferred language.
- If the individual has additional questions about the letter, the bilingual staff person should call LRD and LRD can connect the individual with someone who speaks the individual's language to answer the questions.

Use the agency's telephonic interpretation service when a bilingual staff person is not available. Staff should not tell an individual who wishes to file a wage claim to call or come back later if a bilingual staff person is unavailable. These telephonic interpreters can also read letters to individuals in their preferred language. A card with the telephone number and access codes for the telephonic interpretation service will be distributed to all Workforce Connection Center staff. Staff should keep this card in an easily accessible place in your workspace so that you can readily contact the telephonic interpretation service when necessary.

There is a multilingual notice advising individuals of the right to receive language assistance services for filing wage claims, which is available on the LRD webpage. However, when individual's walk-in to a Workforce Connection Center, staff should use the iSpeak card to help the individual [4] identify the language he or she needs to communicate. This may facilitate connecting the individual with the right language interpreter when you call the interpreter service.

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[4] *Note that if a wage claimant needs a language that is not on the multilingual notice, you can also use an iSpeak card produced by the U.S. Census bureau, which contains many more languages.*

Some individuals with LEP will not request language assistance services. This may happen because the individual with LEP does not know that free language assistance services are available, or the individual with LEP may not recognize the level of English proficiency or communication skills needed to understand the wage claim process. Staff are encouraged to offer language assistance services at any point where an individual's limited English proficiency becomes apparent even though the individual may not have previously requested an interpreter. If staff believe that an interpreter would help communicate with an individual, please offer one.

PROCEDURES

Written procedures for assisting individuals who would like to file wage claims will be developed and maintained in the AE and Operations offices.

APPLICABILITY

All WCCNM Offices, all Service Providers and co-located Partners

INQUIRIES
WIOA Manager 505-247-1750

This Policy has received approval by the Workforce Connection of Central New Mexico Board and rescinds any policy previously in effect.

WCCNM Board Chair