

State Agency Must Give Notices to Applicants for Unemployment Benefits in a Language They Understand

The decision letter sent by the Tennessee Department of Labor and Workforce Development to a limited-English-proficient applicant must be in a language that the applicant understands, the Tennessee Chancery Court for Rutherford County ruled. As the result of this decision in *Mendoza v. Neeley*, the agency has posted in its local offices notices stating that an applicant can obtain free interpreter services. A decision letter containing appeal deadlines now includes at the top of the letter a sentence stating in Spanish that the letter contains important advisory information.

Factual Summary

Javier Mendoza, a lawful permanent resident of the United States, speaks and understands only Spanish and is limited-English proficient. He was employed by Spherion Corporation, a temporary employment company that placed him to work for Dell Computer. After completing 1,040 hours of employment, he was laid off. He filed for unemployment benefits with the agency.

Because the initial claim form was in English, Mendoza asked for an interpreter to assist him in completing the form. The agency sent him a letter in English, denying him benefits and informing him of his right to appeal and of the fifteen-day deadline to file the appeal. He could not understand the letter. Eventually he found the agency's main office in Nashville and met with a Title VI staff member of the agency. She translated the letter and helped him understand that he had missed the appeal deadline.

Tennessee law allows filing a late appeal for good cause. Mendoza filed his late appeal and asserted his good cause for filing late and requested a hearing on the issue of a late appeal. He stated that he had good cause for filing a late appeal because he did not read or understand English and did not have a translator. He therefore did not understand the denial letter's contents or deadline. The agency denied the request. Mendoza then retained counsel and appealed the agency's denial. Administrative remedies were unsuccessful, and he filed in state trial court a complaint seeking reversal of the agency decision. The court issued a favorable decision for him. The decision states that proper notice to limited-English-proficient persons is "notice reasonably calculated to convey to them the decision and the deadline for the appeal."

Legal Claims

Mendoza claimed that (1) the agency failed to consider the mandates of Title VI of the federal Civil Rights Act of 1964 in assessing whether he had good cause to file a late appeal; (2) a notice written in English, sent to him whom the agency knew was of limited English proficiency, was not proper notice and (3) the agency, in failing to grant him good cause to file an untimely appeal, violated Tennessee's nondiscrimination law.

Litigation and Result

When the agency knows that a claimant is limited-English proficient, the court held, the agency is obligated to give notice that is reasonably calculated to convey to the claimant the decision and appeal deadlines. The court held that when the claimant requested the assistance of an interpreter, the agency was on notice that the claimant needed the decision to be in claimant's language.

The court reversed the decision of the Tennessee Department of Labor and Workforce Development and remanded the case for a hearing on whether the department had given to Mendoza effective notice that was reasonably calculated to convey the substance of its decision and the deadline for his appeal. The court's decision derived from the U.S. Supreme Court's definition, set out in *Mullane v. Central Hanover Bank and Trust Company*, 339 U.S. 306 (1950), of proper notice required by due process.

Implications and Comment

This case sets out the principle that limited-English-proficient persons have the right to reasonable notice about their unemployment benefits. The case establishes what constitutes proper notice for limited-English-proficient persons. This ruling should extend to all state agencies where limited-English-proficient claimants apply for benefits.

The court did not base its decision on a Title VI violation but on the requirements of due process and the definition of proper notice. The actions constituting Title VI violations should be framed as violations of federal and due process requirements. Advocates should raise violations apart from Title VI violations. They should look to state constitutional due process provisions and case law for broader protections than federal law.

[Editor's Note: Case documents in *Mendoza v. Neeley*, Clearinghouse No. 56,049, are available in our Poverty Law Library at www.povertylaw.org.]

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