

<b>TRAINING AND EMPLOYMENT NOTICE</b>	<b>NO.</b> 27-09
	<b>DATE</b> January 29, 2010

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES *Jane Oates*  
Assistant Secretary

SUBJECT: Continued Availability of UC Modernization Incentive Payments

- Purpose. To encourage states to apply for UC Modernization incentive payments.
- Background. The Assistance for Unemployed Workers and Struggling Families Act of Public Law No. 111-5, enacted on February 17, 2009, provides for a special distribution of \$7 billion in unemployment compensation (UC) modernization incentive payments to states. To obtain its share, a state must make an application to the Department of Labor (Department) demonstrating that its UC law contains certain benefit eligibility provisions. Unemployment Insurance Program Letters (UIPL) No. 14-09, No. 14-09 Change 1, No. 14-09 Change 2, and No. 14-09 Change 3 provide an overview of the incentive payments, the requirements for approval, and detailed application instructions.
- Current Status of Incentive Payments. On February 17, 2009, Federal law made \$7 billion in incentive payments available for states that update their UC programs to reflect the nature of the 21<sup>st</sup> century economy. As of the date of this notice, a total of \$2,845,024,070 in incentive payments has been disbursed to 32 states. A total of \$4,154,975,930 remains available for payment to states that submit applications meeting the requirements for approval. The following table contains information about state incentive payment applications.

<b>States that received their full share</b>	AR, CO, CT, DE, GA, HI, ID, IL, IA, KS, ME, MA, MN, MT, NV, NH, NJ, NY, OK, OR, TN, WI
<b>States that received one-third of their share</b>	AK, DC, MI, NM, OH, SD, VA, VT, WA, WV
<b>States that have not yet applied</b>	AL, AZ, CA, FL, IN, KY, LA, MD, MS, MO, NE, NC, ND, PA, PR, RI, SC, TX, UT, VI, WY

- Advantages of Modernizing UC Laws. Modernizing UC laws helps states to better meet the needs of the 21<sup>st</sup> century workforce. Many of today's workers who need to balance work and family responsibilities often do not qualify for UC benefits. In some states, less than 3 out of 10 jobless workers qualify for benefits, due in part to eligibility restrictions in state UC laws. The UC Modernization provisions outlined below eliminate barriers to UC benefit receipt affecting recent entrants to the labor force, low-wage workers, women, and part-time workers. These eligibility provisions are not novel or radical; in fact, many state laws already contained the qualifying provisions prior to the enactment of the Federal UC Modernization provisions.

Below are types of benefit expansions that enable states to qualify for UC Modernization incentive payments:

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U.S. DEPARTMENT OF LABOR  
WASHINGTON, D.C. 20210**

- Use recent wages when determining UC eligibility. This provision expands UC eligibility for low-wage workers and recent entrants to the labor market. Recent entrants to the labor market often do not qualify for UC because, for administrative reasons, many state laws exclude their earnings in the most recently completed calendar quarter when determining their eligibility. Even though unemployment taxes have been paid on these earnings, some workers are not eligible for UC.
- Pay UC to workers seeking only part-time employment. This provision is of particular importance to women, who often work part-time in order to balance work and family. Workers with a substantial history of part-time employment are often excluded from receiving UC when they seek the same part-time hours they have always worked. Again, this denial occurs even though taxes have been paid on their wages and even if the worker had sufficient earnings to qualify for UC.
- Ease qualifying requirements for workers who separate from employment because of certain compelling family reasons. Often, workers who separate from employment because of domestic violence, sexual assault, illness or disability of a family member, or the need to accompany a spouse to a new place of employment are not eligible for UC once they are able and available for work. In these circumstances, workers become unemployed through no fault of their own and should benefit from the UC safety net while actively seeking employment.
- Extend benefits to workers in approved training who exhaust regular UC. Everyone, including employers, benefits from a trained workforce. Unemployed workers often do not enter into a course of training because they lack wage replacement during the period of the training. Also, some workers may drop out of training when their regular UC expires. Providing for additional training benefits helps these workers to complete their training and find a good job.
- Add dependents' allowances to weekly benefits. The loss of a job places financial stress on the entire family, not just the unemployed worker. Particularly for low-wage workers or families with a single wage-earner who becomes unemployed, any loss of income reduces the family's ability to meet their basic needs. A dependents' allowance is a modest way of helping families weather the economic crisis resulting from loss of employment.

The Department is pleased that so many states received UC Modernization incentive payments in 2009. Because these provisions make states' UC laws more responsive to the modern workforce, and are beneficial to both workers and state economies, states are encouraged to update their UC programs to qualify for incentive payments.

5. Allowable Uses of UC Modernization Incentive Payments. Incentive payments may be used for the payment of benefits. If appropriated by the state's legislature, they may also be used for the administration of the state's UC program, including implementing UC Modernization, or the administration of its public employment offices. A number of states have antiquated information technology infrastructure and computer systems that are in need of updating in order to better manage the increased claim workload. Incentive payments may be used for this purpose.

In addition to the UC Modernization incentive payments, the Assistance for Unemployed Workers and Struggling Families Act provided for a special administrative transfer to all states totaling \$500,000,000. This administrative transfer was made to each state's account in the Unemployment

Trust Fund (UTF) on March 2, 2009. We note that this administrative transfer may be used for several purposes, including implementing and administering the provisions of state law that qualify the state for the UC Modernization incentive payments.

6. Advantages of Applying for Incentive Payments. The heavy job losses experienced during the current recession have resulted in historically high unemployment rates and increased UC payouts that have strained state unemployment funds. UC Modernization incentive payments can help bolster state unemployment funds, potentially reduce liability for interest payments that must come from other state revenue, and may help to reduce or avoid employer tax increases.

It is important to note that states may enact a new provision of law to qualify for the incentive payment, but delay its effective date due to implementation requirements or cost concerns. In these cases, a state may receive an incentive payment up to 12 months prior to the state law provision taking effect. Since applications must be received no later than August 22, 2011, the latest effective date of a provision must, therefore, be on or before September 21, 2012.

States are expected to act in good faith when adopting the eligibility provisions; however, if a state enacts the provisions and later finds that they are not meeting the state's needs, the state may modify or repeal the provisions without having to return its incentive payment. (See Question and Answer 1 in the attachment to UIPL No. 14-09, Change 1.)

7. Technical Assistance. In February 2010, the Department plans to host webinars on UC Modernization to provide guidance to states. Additional information about dates, times, and content is forthcoming. In addition, Employment and Training Administration (ETA) staff in the Office of Unemployment Insurance's Division of Legislation is available to review proposed legislation, regulations, or policies associated with implementing the benefit expansions that will enable the state to qualify for the incentive payments. Requests for technical assistance should be directed to your ETA Regional Office.
8. Application Deadline and Instructions. Since all incentive payments must be made before October 1, 2011, and since there must be sufficient time for the Department to review any application and for the Treasury to transfer funds, all applications must be received by the Department no later than August 22, 2011. Applications are to be signed by the state agency administrator and addressed to:

Gay Gilbert  
Administrator  
Office of Unemployment Insurance  
200 Constitution Avenue, NW  
Room S-4231  
Washington, DC 20210

States may submit applications by mail, fax, or e-mail. States may fax applications to 202-693-2874 to the attention of the Division of UC Legislation. E-mail submissions should be sent to [Gilbert.Gay@dol.gov](mailto:Gilbert.Gay@dol.gov) with a cc to [Hildebrand.Gerard@dol.gov](mailto:Hildebrand.Gerard@dol.gov). Copies should be provided to the appropriate Regional Office.

9. Action. State administrators should work with their governors and state legislatures to amend their states' UC laws as needed to be eligible for receipt of incentive payments.
10. Inquiries. Questions regarding applications for UC Modernization incentive payments should be directed to your Regional Office.

11. Attachments.

Attachment I – Status of UC Modernization Incentive Payments and Amounts Remaining

Attachment II – Map of UC Modernization Activity in the States