

<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> UC
	<b>CORRESPONDENCE SYMBOL</b> DL/OUI
	<b>DATE</b> December 6, 2016

**ADVISORY:** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 1-15, Change 1

**TO:** STATE WORKFORCE AGENCIES

**FROM:** PORTIA WU /s/  
Assistant Secretary

**SUBJECT:** Permissible Drug Testing of Certain Unemployment Compensation (UC) Applicants Provided for in Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012: Questions and Answers

1. **Purpose.** To respond to questions from state workforce agencies regarding the requirements of Federal law pertaining to permissible drug testing of certain UC applicants.

2. **References.**

- Section 303(l) of the Social Security Act (SSA);
- 20 CFR Part 620 - Occupations that Regularly Conduct Drug Testing for State Unemployment Compensation Eligibility Determination Purposes; and
- Unemployment Insurance Program Letter (UIPL) No. 1-15, *Permissible Drug Testing of Certain Unemployment Compensation Applicants Provided for in Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012* (October 9, 2014)

3. **Background.** President Obama signed the Middle Class Tax Relief and Job Creation Act of 2012, (the Act) on February 22, 2012. Section 2105 of the Act added subsection (l) to Section 303, SSA, to permit states to test a UC applicant for the unlawful use of controlled substances (drugs) as an eligibility condition if the applicant: (i) was terminated from employment with the applicant’s most recent employer (as defined under the State law) because of the unlawful use of controlled substances; or (ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor.) The regulation to define “an occupation that regularly conducts drug testing” was published in the Federal Register on August 1, 2016 as 20 CFR Part 620. It became effective 60 days later on September 30, 2016.

UIPL No. 1-15 provided general guidance about the drug testing provisions, and specific guidance about the testing permitted by Section 303(l)(1)(A)(i), SSA, for individuals who were terminated from employment with their most recent employer because of the unlawful use of controlled substances. This Change 1 provides guidance about the regulation at 20 CFR Part 620 - Occupations that Regularly Conduct Drug Testing for State Unemployment

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
----------------------------	--------------------------------------

Compensation Eligibility Determination Purposes, and addresses questions that have arisen since the issuance of UIPL No. 1-15. The guidance is presented as a series of questions and answers.

4. **Action Requested.** States are requested to review this UIPL and assure their laws and practices conform to and comply with its guidance.
5. **Inquiries.** Inquiries should be directed to the appropriate Regional Office.
6. **Attachment.** Questions and Answers Regarding Permissible Drug Testing Of Applicants for Unemployment Compensation (UC) Under Section 303(1), SSA.