

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
	CORRESPONDENCE SYMBOL OUI /DL
	DATE April 10, 2014

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 26-13, Change 1

TO: STATE WORKFORCE AGENCIES

FROM: ERIC M. SELEZNOW /s/
Acting Assistant Secretary

SUBJECT: Request for Current Law on State Work Search Requirements

1. **Purpose.** To remind states to provide to the Department of Labor (Department), in their submissions under Form MA 8-7, information pertaining to state work search requirements in effect as of January 1, 2014, for conformity purposes.

2. **References.**

- Section 303(a) of the Social Security Act (SSA), 42 U.S.C. 503(a);
- Federal Unemployment Tax Act (FUTA), 26 U.S.C. 3301 *et seq.*;
- Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96);
- 20 CFR 601.3;
- 20 CFR 609.1(d)(1), 614.1(d)(1), and 617.52(c)(1);
- Unemployment Insurance Program Letter (UIPL) No. 27-07, *Required Submission of Unemployment Compensation Materials Using Form MA 8-7*;
- UIPL No. 26-13, *Extension of Approval and Reminder of Requirement to Use Form MA 8-7, Transmittal for Unemployment Insurance Materials*; and
- Collection of Information, *Transmittal of Unemployment Insurance Materials*: OMB control number 1205-0222.

3. **Background.** Section 303(a)(6), SSA, requires, as a condition of a state receiving unemployment compensation (UC) administrative grants, that state law contain provision for the “making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to ensure the correctness and verification of such reports.” Departmental regulations at 20 CFR 601.3 in part implement this requirement by requiring the submission of “all relevant state materials, such as statutes, executive and administrative orders, legal opinions, rules, regulations, interpretations, court opinions, etc. . . .” Also, the regulations for the Unemployment Compensation for Federal Civilian Employees (UCFE) program at 20 CFR 609.1(d)(1) and for the Unemployment Compensation for Ex-servicemembers (UCX) program at 20 CFR 614.1(d)(1) require

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submission of certain documents to assure that states are properly administering these programs. The Trade Adjustment Assistance (TAA) program, which includes Trade Readjustment Allowances (TRA), provides similar regulatory requirements at 20 CFR 617.52(c)(1).

The MA 8-7 is the mechanism for implementing these submittal requirements, the purpose of which is to provide the Secretary of Labor (Secretary) with sufficient information to determine if: (a) state UC law conforms to FUTA, so that employers in a state may qualify for tax credits; (b) state UC law conforms to Title III, SSA, for the state to obtain administrative grants; and (c) the state fulfills its obligations under Federal UC programs.

- 4. New work search requirement in Federal law.** The Middle Class Tax Relief and Job Creation Act of 2012, enacted on February 22, 2012, included several UC program provisions. One of these was an amendment to add section 303(a)(12), SSA, as a new permanent provision to Federal UC law that adds a work search requirement as a condition for grant eligibility. All states reported that they already had a work search requirement before the 2012 enactment. However, state laws vary widely in the number of contacts required of claimants, how states monitor those work search contacts, and the effect of failure to conduct a work search – or an adequate work search – for a given week.

As set forth in 20 CFR 601.3, state law includes, among other documents, statutes, regulations, policy and procedure memoranda, and agency and court precedential decisions. State statutes and regulations may be publicly available online. However, policies and procedures, and decisions by the agency and court that the agency deems of precedential value, are frequently not readily available. By sending copies of current state laws, policies, and procedures governing state work search requirements, states will help ensure that the Department has up-to-date information to enable oversight of the UC program and provide the Secretary with sufficient information to determine if states are meeting their statutory program requirements. Moreover, receipt of current state laws will—

- inform Federal policies related to work search;
- inform strategies to support reducing work search improper payments;
- support informing other states regarding each state’s work search requirement, which will, in turn, support interstate benefit operations; and
- support program evaluation and research activities.

Thus, to assure the Secretary that states are in conformity with the new work search requirement in Federal law, states are reminded to provide, consistent with UIPL No. 27-07, statutes, regulations, policy and procedure memoranda, and precedential agency and court decisions relating to work search requirements. To help the Department better understand how states interpret their laws, states could, for example, provide the following information:

- Whether each requirement is based on statute, regulation, and/or interpretation or policy; citations and/or court case or appeal precedent references would be helpful.

- Number of employer contacts required: indicate the number of employer contacts an individual must make each week to meet requirements for eligibility. Indicate whether other activities may be substituted, and whether there are variations in the requirement based on occupation, geographic area, or other circumstances.
- Acceptable methods of employer contact: indicate whether individuals may apply for work in person, by phone, mail, fax, e-mail, web posting, etc.
- Full-time/part-time work search: indicate the type of work for which individuals may apply (full-time, part-time, suitable, other). Indicate whether there are any special requirements, including those for temporary help or day labor firms.
- Exemptions: indicate whether certain individuals are exempt from work search requirements (job-attached individuals, union members, seasonal workers, etc.).
- Reporting work search activities: indicate how often individuals must report. Indicate whether individuals must report by phone, online, in person, by mail, maintain a work search log, etc., and what information must be provided.
- Enforcement and monitoring: indicate whether work search contacts are reviewed weekly, biweekly, randomly, etc. Indicate whether verification of contacts is done by phone, by mail, etc.
- Formal warning: indicate whether failure to search for work, or failure to conduct an adequate search for work, results in formal warning prior to disqualification or other penalty.
- Consequences of failure to search for work: indicate whether failure to search for work, or failure to conduct an adequate search for work, results in disqualification or other penalty. Indicate nature of disqualification (e.g., number of weeks or re-qualifying wages required), if applicable.

Of course, states should submit all conformity materials as changes are made to state law, using the Form MA 8-7, to update the information previously provided and to allow for continuous review of state law for conformity purposes.

5. **OMB Approval.** Persons are not required to respond to this collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. As described in UIPL No. 26-13, OMB has approved the use of Form MA 8-7 for data collection under control number 1205-0222.
6. **Action Requested.** The Department reminds states to use the Form MA 8-7 to submit the information requested in section 4 of this UIPL, as well as supporting statutes, regulations, policy and procedure memoranda, and precedential agency and court decisions, to the Department no later than May 31, 2014. States should e-mail submissions to Information.StateUILegal@dol.gov.
7. **Inquiries.** Please direct inquiries to the appropriate regional office.
8. **Attachments.** Form MA 8-7 and instructions