

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 29-12

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Improving Overpayment Detection and Recovery Efforts Related to Emergency Unemployment Compensation (EUC), Extended Benefits (EB), and Federal Additional Compensation (FAC)

1. **Purpose.** To provide guidance to states about their ongoing responsibilities for preventing, detecting and recovering improper payments of EUC, EB and FAC, and inform states of a new management information measure to capture states' progress in conducting and improving their program integrity activities related to these Federally funded programs.

2. **References.**

- Improper Payments Information Act of 2002 (IPIA), Pub. L. 107-300 (31 U.S.C. 3321 note);
- Improper Payments Elimination and Recovery Act of 2010 (IPERA), Pub. L. 111-204 (31 U.S.C. 3321 note);
- Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96);
- Office of Management and Budget (OMB) Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123 (April 14, 2011);
- Unemployment Insurance Program Letter (UIPL) No. 23-08, *Supplemental Appropriation Act, 2008, Title IV— Emergency Unemployment Compensation*, and UIPL No. 23-08, Changes 1-6;
- UIPL No. 02-09, *Recovery of Unemployment Compensation Debts Due to Fraud from Federal Income Tax Refunds*, and UIPL No. 02-09, Changes 1-2;
- UIPL No. 11-09, *New Temporary Federal Additional Compensation Program*, and UIPL No. 11-09, Change 1;
- UIPL No. 12-09, *Extended Benefits Program – Temporary Changes made by the Assistance for Unemployed Workers and Struggling Families Act*, and UIPL No. 12-09, Change 1;
- UIPL No. 04-10, *Extension of Temporary Provisions - Emergency Unemployment Compensation, 2008, Federal Additional Compensation, and Extended Benefits*, and UIPL No. 04-10, Changes 1-9;

RESCISSIONS None	EXPIRATION DATE Continuing
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- UIPL No. 19-11, *National Effort to Reduce Improper Payments in the Unemployment Insurance (UI) Program*; and
- U.S. Department of Labor Office of Inspector General (OIG) Audit No. 18-12-001-03-315.

3. **Background.** The integrity of the Unemployment Compensation (UC) programs is a top priority for the U.S. Department of Labor’s (Department) Employment and Training Administration (ETA). Throughout the implementation period of the EUC program in all of its iterations and the temporary 100 percent Federally funded EB program, as well as FAC, ETA actively worked with states to help ensure they have properly implemented and administered these programs. Extensive guidance and technical assistance have been provided to states to assist them in understanding and administering the programs. ETA focused additional resources provided under the American Recovery and Reinvestment Act of 2009 (ARRA) primarily on state monitoring activities, including monitoring of program integrity activities. Additionally, ETA developed an extensive and comprehensive strategic plan to improve prevention, detection, and recovery of overpayments for all UC programs in an effort to meet the IPERA requirement of an improper payment rate of less than 10 percent. These strategies are intended for all UC programs, including the temporary Federally funded programs. Please refer to the Department’s Improper Payment Web site <http://www.dol.gov/dol/maps/Strategies.htm> for more information.

On January 31, 2012, the OIG issued a Report of Audit No. 18-12-001-03-315, *Recovery Act: ETA is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally Funded Emergency Benefits*. The objective of the audit was to determine whether ETA had effective controls in place to monitor the states’ overpayment detection and recovery efforts for Federal and state UC programs. The period of time covered by the audit is the time between Fiscal Year (FY) 2008 and FY 2010.

During the course of the audit, the Department’s OIG concluded that overpayments in these temporary Federal programs have gone undetected and unrecovered. The OIG estimates (by applying the Benefit Accuracy Measurement [BAM] operational overpayment rate to the Federal program outlays) that \$5.6 billion in detectable overpayments in the temporary Federal programs were missed over the past three years and recommended that ETA provide guidance to states to ensure these overpayments are detected and recovered. While recognizing the states’ considerable efforts to ensure that these programs were implemented in a timely manner and administered properly during periods with extremely high workloads, ETA agrees that states must make every effort to detect and recover any past or current overpayments in these temporary Federally funded programs. States are expected to use the same procedures and tools to prevent, detect and recover improper payments for EUC, EB and FAC as they use for the regular state UC program.

4. **Preventing, Detecting, and Recovering Overpayments in Federally Funded Temporary Programs Including EUC, FAC, and EB.** Prevention is central to reducing overpayments and maintaining integrity in all UC programs, including any temporary Federal programs. Two key tools states currently use to prevent overpayments are the National Directory of New Hires (NDNH) and the State Directory of New Hires (SDNH), which allow states to

check for unreported earnings. UIPL No. 19-11 contains recommended operating procedures for states' use in conducting cross-matches against the NDNH and SDNH to prevent and detect overpayments. It is essential that states adopt these operating procedures to make optimal use of these tools to prevent overpayments while delivering timely and proper payments. These tools, along with other tools and integrity activities, must be consistently used along with other state tools and cross-matches such as matches to verify a claimant's identity.

5. Actions to Detect and Recover Missed Overpayments and Prevent Future

Overpayments in EUC, FAC, and EB. The Department expects states to continue to take aggressive action to detect and recover any overpayments that were missed during the implementation of the EUC program including all of its iterations, the temporary changes for the 100 percent Federally funded EB program, and the FAC \$25 supplemental benefit. States must report the results of these actions to ETA. Below are suggested actions states can take to most effectively detect and recover overpayments in these programs:

- **Ongoing or Retroactive NDNH Cross-Matching and Investigations of EUC and EB Claims.** States that conducted cross-matches with the NDNH or SDNH but did not complete the associated investigations should now complete these investigations using available records and the same procedures used in the regular state program. States that did not conduct NDNH cross-matches or did not routinely cross-match EUC and EB claims must run special cross-matches against NDNH, if feasible, and cross-matches against the state wage records to the extent that these records are available. NDNH records are available for 24 months from the date they are reported to NDNH, and state wage records in each state are available for longer periods. To conduct such special NDNH cross-matches, states will have to modify the programming for the construction of each record. The following NDNH input detail record parameters (see Attachment A) are recommended:
 - The Passback Data field will include the phrase FED EUC EB.
 - The W-4 Match Indicator will equal Y or a space.
 - The W-4 Same State Data Indicator will equal Y.
 - The W-4 From Date will equal file transmit date minus 732 days.
 - The W-4 Through Date will be equal to the last Federally compensated benefit week plus 48 days.
 - The QW (Quarterly Wage) Match Code will equal R.
 - The QW From Reporting Period will equal 32008 or the first calendar quarter in which the claimant filed for EUC and EB payments.
 - The QW Through Reporting Period will equal the last calendar quarter in which the claimant filed for Federally funded EUC or EB payments.

The state should move the one-time NDNH match (i.e., "hit") return file into a special folder separate from normal production files for investigation and follow up. The state should count the number of hits returned from these special cross-matches and report that number in the comments section on the ETA 227, *Overpayment Detection and Recovery Activities* report. The state will report EB and EUC overpayments identified through this

cross-match on the appropriate ETA 227 Overpayment Detection and Recovery Activities Report reports.

- Active Recovery of Overpayments of Federally Funded EUC and EB Programs. Every procedure and tool available and permitted under the state law should be used to recover EUC, EB and FAC overpayments. The Treasury Offset Program (TOP) is available to recover improper UC payments through offsets from Federal income tax refunds. The states that have implemented this tool have reported considerable recoveries of overpayments. ETA encourages all states to consider using TOP as a recovery tool and will provide technical assistance to states during implementation.
 - Detection and Recovery of FAC Overpayments. ETA is aware that a number of states encountered significant technology challenges in implementing the FAC \$25 supplemental payment, including implementing mechanisms to establish and recover FAC overpayments. States should continue to establish and recover FAC overpayments as they conduct retroactive, as well as, current reviews of EUC and EB. Newly identified EUC, EB and FAC overpayments must also be assessed and established and recovered in accordance with guidance outlined in UIPL No. 11-09, Section 5 of Attachment A. For those FAC overpayments already detected and established but not recovered, recovery efforts must be conducted. Section 303(g)(3) of the Social Security Act, was amended by Pub. L. 112-96 to include in the definition of “unemployment benefits” those payments received under FAC.
 - Review of work search activity for claimants receiving EUC payments. Pub. L. 112-96, enacted on February 22, 2012, requires states to conduct random audits of EUC claimants’ work search activities to ensure the new work search requirement is met. This activity will prevent overpayments by ensuring claimants receiving EUC are able to work, available for work, and actively seeking work, as required.
6. **Management Information Measure.** In response to the OIG’s findings, the Department has developed a management information performance measure to assess the extent to which states were detecting and establishing EUC and EB overpayments. The measure is modeled on the regular program Detection of Overpayments (D/O) measure used for the BAM program and has as its numerator the overpayment dollars established and an estimate of dollars overpaid as its denominator.

Although EB and EUC are not covered by the BAM program because they are temporary and episodic programs, the BAM operational overpayment rate, after adjustments for differences between regular and EUC/EB program eligibility conditions, is used to estimate the likely EB and EUC rate for each state. Two kinds of adjustments were made to the regular state program operational rate. First, the EB/EUC rate contains no separation errors involving base period employers, because these base period separations are only reviewed when a claimant files an initial claim for regular compensation. (Separation errors attributable to employment in the claimant’s benefit year are, however, included as these can occur during receipt of EB or EUC.) Second, because the recent legislation enacted on February 22, 2012, extending EUC added work search and Employment Service registration requirements, the

adjusted rate includes any overpayments that are due to such errors if the state deems them recoverable under its law. Many such overpayments are not recoverable; the operational rate includes only those that are recoverable.

EB and EUC payments (from the ETA 5159, Claims and Payment Activities reports) are multiplied by the modified operational rate to obtain estimated dollars overpaid for each program, and the detection ratio measure is obtained by dividing the dollars overpaid for EUC into dollars established for EUC. This ratio is assumed to fairly estimate the EB D/O ratio as well.

Attachment C contains the results of this measure for overpayments established in Calendar Year 2011 and payments made six months earlier (July 2010 through June 2011). The data suggests that the states are not recovering overpayments on EUC and EB claims at the same rate overpayments are recovered in the regular UC program. The dollars established for EB were obtained by multiplying EB dollars paid by the D/O ratio. The table shows estimates for the states. Eleven states have no EB results to report because their EB programs were not triggered on during the reporting period.

Updates to the measure will be posted to ETA's Performance Management Web site <http://www.oui.doleta.gov/unemploy/performance.asp>. Once states have implemented the revised ETA 227, Overpayment Detection and Recovery Activities report, which breaks out EB dollars established, the EB ratio will be based on reported EB dollars established.

7. **Action Requested.** State Administrators are requested to provide this information to appropriate staff and take the recommended steps in the guidance to prevent, detect, and recover overpayments of EUC, EB and FAC.
8. **Inquiries.** Direct inquiries to the appropriate Regional Office.
9. **Attachments.**
 - A. State Header and Input Detail Record
 - B. State W-4 Output Detail Record
 - C. Detection of Overpayment Ratios for the EB and EUC Programs