

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL OUI/DL
	DATE March 15, 2019

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 26-13, Change 3

TO: STATE WORKFORCE AGENCIES

FROM: MOLLY E. CONWAY 
 Acting Assistant Secretary

SUBJECT: Request for Current Law on State Work Search Requirements

1. **Purpose.** To request that states 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 October 1, 2018, for conformity purposes.
2. **Action Requested.** The Department reminds states to use the Form MA 8-7 to submit the required information described in section 4 of this Unemployment Insurance Program Letter (UIPL), as well as supporting statutes, regulations, policy and procedure memoranda, and precedential agency and court decisions, to the Department no later than **30 days after the date of issuance of this UIPL**. States should e-mail submissions to Information.StateUILegal@dol.gov.
3. **Background.** Section 303(a)(6) of the Social Security Act (SSA) requires, as a condition of a state receiving unemployment compensation (UC) administrative grants, that state law contain provisions 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 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 Form 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 the Federal Unemployment Tax Act (FUTA), so that employers in a state may qualify for tax credits; (b) state UC law conforms to Title

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III, SSA, for the state to obtain administrative grants; and (c) the state fulfills its obligations under Federal UC programs.

4. **Work Search Requirement in Federal Law.** The Middle Class Tax Relief and Job Creation Act of 2012 amended Federal law to add Section 303(a)(12), SSA, to require, as a condition for grant eligibility, that state UC laws include a work search requirement. 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 an adequate work search, for a given week.

On April 10, 2014, the Department issued UIPL No. 26-13, Change 1, and requested that states provide the Department with their statutes, regulations, policy and procedure memoranda, and precedential agency and court decisions relating to work search requirements. State statutes and regulations are often publicly available online. However, policies and procedures and decisions by the agency and courts that the agency deems of precedential value are frequently not readily available. The Department requested this information to help ensure that it had up-to-date information to enable oversight of the UC program.

Now that states have had additional time to amend and revise their work search laws, policies, and procedures, the Department is requesting states provide, consistent with UIPL No. 27-07, copies of statutes, regulations, policy and procedure memoranda, and precedential agency and court decisions relating to work search requirements. To improve the Department's understanding of how states interpret their laws and whether further guidance is needed, states should provide the following information:

- **Whether each work search requirement is based on statute, regulation, and/or interpretation or policy:** if available, states are to include citations and/or court case or appeal precedent references;
- **Number of employer contacts or other work search activities required:** indicate the number of employer contacts or work search activities that an individual must make each week to meet requirements for eligibility, if the state requires a specific number of contacts/activities; indicate the types of work search activities the state will recognize as acceptable 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 (e.g., 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 (e.g., job-attached individuals, union members, seasonal workers, etc.);
- **Reporting work search activities:** indicate how often individuals must report work search activities to the UI agency and whether individuals must report by phone, online, in person, by mail, maintain a work search log, list on the

continued claim certification, etc., and what information the individual must provide;

- **Reporting work search activities as part of the certification process:** indicate whether the state requires the individual to record their work search activities into the state system as part of the certification process;
- **Enforcement and monitoring:** indicate how often work search contacts are reviewed (e.g., weekly, biweekly, randomly, etc.) and indicate whether the state verifies contacts by phone, by mail, etc.;
- **Formal or informal warnings:** indicate whether the state has a policy or practice where the failure to search for work or conduct an adequate search for work results in a formal or informal warning prior to disqualification or other penalty; and
- **Consequences of failure to search for work:** indicate whether the failure to search for work or conduct an adequate search for work results in disqualification or other penalty and indicate the nature of disqualification (e.g., number of weeks or re-qualifying wages required), if applicable.

States are reminded, as they make changes to state laws, to submit all conformity materials 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. **Inquiries.** Please direct inquiries to the appropriate regional office.

6. **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, 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*;
- UIPL No. 26-13, Change 1, *Request for Current Law on State Work Search Requirements*; and
- Collection of Information, *Transmittal of Unemployment Insurance Materials*: OMB control number 1205-0222.

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 and shown in the attachment to the UIPL, OMB has approved the use of Form MA 8-7 for data collection under control number 1205-0222.

7. **Attachment(s).** Form MA 8-7 and instructions.



Transmittal for Unemployment Insurance Materials
US. Department of Labor Employment and Training Administration

To: U.S. Department of Labor Office of Unemployment Insurance Room S4231 Attn: _____ 200 Constitution Avenue, N.W. Washington, D.C. 20210	From: (State)
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Check Appropriate Box(es)

- Statutory Material - Proposed and Enacted Legislation
- Rules and Regulations - Proposed and Final
- Agreements and Arrangements
- Official Interpretations
- Decisions and Orders Issued by State Courts, including material related to Consent Orders
- Precedential Administrative Decisions
- Appellate Decisions in Federal UC Programs

Comments:

Signature of Designated Official	Typed Name and Title	Date

OMB No.: 1205-0222 **OMB Expiration Date:** 08/31/2019 **Estimated Average Response Time:** 15 minutes per response
 These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a valid OMB control number. Public reporting burden for this collection of information includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Submission is required to obtain or retain benefits under PL 74-271 Sec. 303(a)(6). Respondents have no expectation of confidentiality. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Workforce Security, Room S-4231, 200 Constitution Ave., NW, Washington, DC, 20210.

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 Prev. versions usable