

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL OUI/DPM
	DATE June 15, 2020

**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 15-20
Change 2**

TO: STATE WORKFORCE AGENCIES

FROM: JOHN PALLASCH
Assistant Secretary



SUBJECT: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—New Data Collection Instrument and Revised Reporting Instructions for Federal Pandemic Unemployment Compensation (FPUC)

1. **Purpose.** The purpose of this Unemployment Insurance Program Letter (UIPL) is to provide states with the new ETA 227–Overpayment Detection and Recovery Activities FPUC report (referred to as the “ETA 227 FPUC report” in this UIPL) and to provide states with revised reporting instructions for the FPUC program. Section 2104 of the CARES Act, Public Law (Pub. L.) 116-136, authorizes the FPUC program.
2. **Action Requested.** The U.S. Department of Labor’s (Department) Employment and Training Administration (ETA) requests that State Workforce Administrators provide the information in this UIPL and all attachments to appropriate program and other staff in state workforce systems. In administering FPUC, states are required to: 1) record and submit FPUC overpayment activities on the new ETA 227 FPUC report attached to this UIPL through the State SUN system; and 2) replace the reporting instructions previously provided under UIPL No. 15-20, Attachment I, Section H. 4, with the new ETA 227 FPUC reporting instructions attached to this UIPL.
3. **Summary and Background.**
 - a. Summary – The FPUC program was authorized on March 27, 2020, and on April 4, 2020, ETA issued UIPL No. 15-20 to provide FPUC program implementation instructions to states. On May 9, 2020, ETA issued Change 1 to UIPL No. 15-20, to provide states with ongoing technical assistance in the administration of the FPUC program. This Change 2 of UIPL No. 15-20 provides guidance on implementation of the new quarterly ETA 227 FPUC report, and replaces the ETA 227 report and prior instructions in UIPL No. 15-20, Attachment I, Section H.4., concerning FPUC overpayment activities.

RESCISSIONS None	EXPIRATION DATE Continuing
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- b. Background – On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. The CARES Act was designed to mitigate the economic effects of the Coronavirus Disease 2019 (COVID-19) pandemic in a variety of ways. UIPL No. 14-20 summarizes the various unemployment insurance related provisions within the CARES Act.

Section 2104 of the CARES Act provides for a temporary emergency increase in unemployment compensation benefits, referred to as FPUC, and includes funding to states for the administration of the program.

The FPUC program provisions operate in tandem with the fundamental eligibility requirements of the federal-state UI program, which remain in place. States must ensure that individuals only receive benefits in accordance with the statutory provisions and ETA's guidance. Section 2104(f) of the CARES Act requires state agencies to recover any FPUC overpayments.

Benefit Payment Control (BPC) units or designated staff in states are responsible for promoting and maintaining the integrity of the UI program through prevention, detection, investigations, establishment, and recovery of overpayments, as well as preparing overpayment cases for prosecution. Activities regarding these essential BPC functions are reported on the quarterly ETA 227 Overpayment Detection and Recovery Activities report (OMB 1205-0187). States are required to report overpayment activities for the following claim types: regular UC, Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Servicemembers (UCX), and Extended Benefits (EB). UIPL No. 23-20 provides that states must implement similar BPC functions for the CARES Act programs, including FPUC. This guidance provides updated reporting instructions for FPUC overpayments and recoveries.

4. FPUC Overpayment Reporting.

a. New ETA 227 FPUC Report and Revised Reporting Instructions.

The FPUC program provides a temporary emergency increase in unemployment compensation by providing an additional \$600 per week to eligible individuals' benefit payments, made under designated UI programs, such as regular UC, UCFE, UCX, etc. If the individual is eligible to receive at least one dollar (\$1) of underlying benefits for the claimed week, the claimant will receive the full \$600 FPUC amount. If the state creates an overpayment on the entire amount of underlying benefits, the full amount of FPUC will also be considered overpaid.

The state is instructed to pay the FPUC amount both at the same time and in the same manner as any regular UC otherwise payable for the week involved or, at the option of the state, by payments which are made separately from, but on the same weekly/biweekly basis as, any regular UC otherwise payable. *See* UIPL No. 15-20 for additional FPUC program specifications. Regardless of the state's election on method of payment, the FPUC amount is considered a separate and distinct payment from the underlying benefit. The existing

ETA 227 report does not provide for states to report on overpayment activities specific to FPUC. To address this, the Department has developed a new data collection instrument, the ETA 227 FPUC report, which the Department is transmitting to states via this UIPL.

The ETA 227 FPUC report allows states to report all FPUC overpayments, regardless of the underlying benefit program that qualifies the individual to receive FPUC, in one place. The new ETA 227 FPUC report and reporting instructions are contained in Attachment I of this UIPL. In implementing reporting on the ETA 227 FPUC, states must:

- Report FPUC overpayment information **only** on the ETA 227 FPUC report;
- Follow the ETA 227 FPUC reporting instructions, attached to this UIPL;
- Begin submission of ETA 227 FPUC reports for the quarter ending June 30, 2020, which are due by August 1, 2020; and
- Continue to report overpayment information on the ETA 227 FPUC report until there is no longer any FPUC-related overpayment activity.

Information on overpayments for the underlying benefit program must be provided on a separate report (*e.g.*, regular UC, UCFE, UCX, and EB on the regular ETA 227 report, PEUC on the new PEUC ETA 227 report, and PUA on the ETA 902p report).

The new ETA 227 FPUC report will be available on the State SUN system late June, 2020 for quarterly submission of this report to ETA.

b. Office of Management and Budget (OMB) Approval.

Division A, Title II, Section 2116(a) of the CARES Act states that “Chapter 35 of Title 44, United States Code, (commonly referred to as the ‘Paperwork Reduction Act of 1995’), shall not apply to the provisions of, and the amendments made by, this subtitle.” As the OMB approval process is waived for these reporting instructions, these instructions are considered final and states are required to provide the information requested in this form.

5. **Inquiries.** States should direct inquiries to the email account covid-19@dol.gov and copy the appropriate ETA Regional Office.

6. **References.**

- Sections 2104 and 2116 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, 2020, Pub. L. 116-136, including Title II Subtitle A Relief for Workers Affected by Coronavirus Act;
- UIPL No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, issued April 4, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297;
- UIPL No. 15-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reporting Instructions and Questions and Answers*, issued May 9, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3946;

- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390;
- UIPL No. 13-20, *Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020*, issued March 22, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634; and
- UIPL No. 10-20, *Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19)*, issued March 12, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8893.

7. Attachment(s).

Attachment I - ETA 227 Overpayment Detection and Recovery Activities (FPUC):
Facsimile of Form and General Reporting Instructions

ETA 227 - OVERPAYMENT DETECTION AND RECOVERY ACTIVITIES (FPUC)

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A. Facsimile of Form

ETA 227 - OVERPAYMENT DETECTION AND RECOVERY (FPUC)

STATE	REGION	REPORT FOR PERIOD ENDING													
st	g_states.region	rptdate													
SECTION A. OVERPAYMENTS ESTABLISHED - CAUSES															
Cause	Line No.	Number of Cases							Dollar Amounts						
		UI (1)	UCFE /UCX (2)	EB (3)	PEUC (4)	PUA (5)	TRA (6)	DUA (7)	UI (8)	UCFE /UCX (9)	EB (10)	PEUC (11)	PUA (12)	TRA (13)	DUA (14)
Fraud - Total	101														
Case of Agency Employee Benefit Fraud	102														
Nonfraud - Total	103														
Total - Fraud and Nonfraud	104														

SECTION B. RECOVERY/RECONCILIATION															
Item	Line No.	Dollar Amounts													
		Fraud							Nonfraud						
		UI (15)	UCFE /UCX (16)	EB (17)	PEUC (18)	PUA (19)	TRA (20)	DUA (21)	UI (22)	UCFE /UCX (23)	EB (24)	PEUC (25)	PUA (26)	TRA (27)	DUA (28)
Outstanding Beginning Period	201														
Recovered - Total	202														
Waived	203														
Written Off	204														
Additions	205														
Subtractions	206														
Outstanding at End of Period	207														
Recovered for Other States	208														

Comments:

OMB No.: NA

OMB Expiration Date: NA

Estimated Average Response Time: NA

OMB Approval. Section 2116(a), Division B, Title II of the CARES Act states that “Chapter 35 of Title 44, United States Code, (commonly referred to as the “Paperwork Reduction Act of 1995”) shall not apply to the amendments made under this subtitle.” As the OMB approval process is waived for these reporting instructions, these instructions should be considered final.

B. Purpose

The Federal Pandemic Unemployment Compensation (FPUC) Program, ETA 227 Overpayment Detection and Recovery Activities report (referred to as the “ETA 227 FPUC report” in this Attachment) provides information on FPUC overpayments.

As stated in UIPL No. 15-20, if an individual is eligible for \$1 in underlying benefits from the following programs, the individual qualifies for the additional \$600 FPUC payment. These underlying benefits include:

- The regular state unemployment insurance (UI) program;
 - Unemployment Compensation for Federal Employees (UCFE);
 - Unemployment Compensation for Ex-Servicemembers (UCX);
 - Pandemic Emergency Unemployment Compensation (PEUC);
 - Pandemic Unemployment Assistance (PUA);
 - Permanent federal-state Extended Benefits (EB) program;
 - Short-Time Compensation (STC);
 - Trade Readjustment Allowances (TRA);
 - Disaster Unemployment Assistance (DUA); and
 - Payments under the Self-Employment Assistance (SEA) program.
- Overpayments from the underlying benefit must be reported on a separate report from the FPUC overpayments. On the ETA 227 FPUC report, state agencies are to only report overpayments of FPUC.
 - Other UC program overpayments, concerning the underlying benefit, must be reported on the appropriate forms, as listed below:
 1. ETA 227, Overpayment Detection and Recovery Activities Report (OMB 1205-0173) for the UI, UCFE, UCX and EB programs;
 2. ETA PEUC 227 Overpayment Detection and Recovery Report for the PEUC program; and
 3. ETA 902P, Pandemic Unemployment Assistance Activities Report for the PUA program.

State agencies must follow existing reporting instructions for overpayments of the TRA (ETA 9172 Participant Individual Record Layout (PIRL) (OMB 1205-0521)) and DUA (ETA 902 Disaster Unemployment Assistance Activities Report (OMB 1205-0268)) program benefits.

ETA 227 reports show state agency accomplishments in principal detection areas of benefit payment control. The Employment and Training Administration (ETA) and state agencies need such information to monitor the integrity of the benefit payment processes in the UI system. On the ETA 227 FPUC report, data are provided regarding the establishment of FPUC overpayments and recoveries of FPUC overpayments.

C. Due Date and Transmittal

The ETA 227 FPUC report is due quarterly on the first day of the second month after the quarter of reference.

Report for Quarter Ending	Due the Following
March 31	May 1
June 30	August 1
September 30	November 1
December 31	February 1

The ETA 227 FPUC report does not include an aging schedule, (*i.e.*, overpayments established on the report are not removed after a period of time) like what is shown in Section E of the ETA 227 report. State agencies must continue to report FPUC overpayment information on the ETA 227 FPUC report until there is no longer any activity.

D. General Reporting Instructions

All applicable data on the ETA 227 FPUC report must be traceable to the data regarding FPUC overpayments and FPUC recoveries in the state's financial accounting system.

1. Amended Reports. If the information changes from that sent on the initial ETA 227 FPUC report covering the report period, the state agency will send an amended ETA 227 FPUC report electronically.
2. Coverage. Reported activity pertains to all overpayments created for the FPUC program. FPUC overpayments and FPUC recoveries occurring under the STC and SEA programs must be reported under the regular state UI program sections of the ETA 227 FPUC report.
3. Audits. Dollar figures must be traceable to data regarding FPUC overpayments and FPUC recoveries in the state agency's financial accounting system.
4. Checking the Report. Entries must be made for all items. If no activity corresponding to the items occurred during the report period, a zero must be entered. A report containing missing data cannot be sent to the National Office but can be stored on the state's system.

E. Definitions

1. Cases of Agency Employee Benefit Fraud (Line 102). This line concerns fraudulent

activity by agency personnel. Examples include when an agency employee:

- a. Continues to file weekly certifications and fails to report earnings on the employee's UI claim after being hired/rehired with the state UI agency or later reactivates the employee's claim while still working and fails to report earnings.
 - b. Diverts benefits from another's claim(s) that may be inactive and which may involve changing the address and name on the claim to the employee's own address or issuing checks to a "drop address."
 - c. Establishes a claim(s) with fictitious wages and issues benefits to themselves or others.
 - d. Processes a claim(s) for another or others knowing they do not meet eligibility requirements.
 - e. Extorts money from a claimant(s) for authorizing benefits to which the claimant(s) may or may not be entitled.
 - f. Participates in other activities, which leads to the employee receiving UI benefits to which they are not entitled.
2. Cases Established. Any single issue that results in a determination that FPUC was overpaid to a claimant within a single calendar quarter and for which a formal notice of determination has been issued. An FPUC overpayment that covers one or more weeks (or partial weeks) of benefits shall be counted as one case if all weeks of FPUC overpayments are included in the same notice of determination. An FPUC overpayment covering consecutive weeks of benefits that span two calendar quarters must be reported for the calendar quarter in which the notice of decision is issued.
 3. Fraud Overpayment. Section 2104(f)(1) of the CARES Act defines fraud as when an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled.
 4. Non-fraud Overpayment. An FPUC overpayment which the state agency determines is not due to fraud. Non-fraud FPUC overpayments may include FPUC overpayments resulting from reversals, state agency errors, employer errors, and claimant errors.
 5. Overpayment. Benefits paid to an individual who is not legally entitled to these benefits, whether or not the amount is later recovered or waived. Losses through embezzlement or by theft may not be counted as overpayments, unless the embezzlement or theft was conducted through the benefit payment process.
 6. Recovered for Other States (Line 208). FPUC overpayments recovered for and transferred to another state.
 7. Waived (Line 203). A non-fraud FPUC overpayment for which the state agency, in accordance with section 2104 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136), officially relinquishes the obligation of the claimant to repay. Section 2104(f)(2) authorizes states to waive an overpayment when the overpayment was not the fault of the claimant and requiring repayment would be against

equity and good conscience.

8. Written-Off (Line 204). An amount of a FPUC overpayment not subject to further recovery because of a state law provision authorizing cancellation of the overpayment. Usually, write-offs are applied after the statute of limitations expires, bankruptcy has been approved by a court, or the claimant has died.

F. Item by Item Instructions

Reporting instructions for specific items are given only as necessary to supplement headings on the form and the definitions provided in Section E of these instructions.

1. Section A. Overpayments Established – Causes. FPUC overpayments established are classified into two main categories – fraud and non-fraud.
 - a. Line 101. Fraud – Total. Enter the totals for all FPUC overpayments classified as fraud, including and in addition to those reported on line 102.
 - b. Line 102. Cases of Agency Employee Benefit Fraud. Report those FPUC fraud cases and FPUC dollar amounts that included agency staff as a recipient of the UI benefits, and those where an agency staff member acted in collusion with others to set up fraudulent claims and benefit payments and/or schemes.
 - c. Line 103. Non-fraud – Total. Enter the totals for all FPUC overpayments classified as non-fraud.
 - d. Line 104. Total – Fraud and Non-fraud. Sum the totals for lines 101 and 103.
2. Section B. Recovery/Reconciliation. For recoveries, waivers, and write-offs, enter the amounts applicable during the quarter, regardless of when FPUC overpayments were established. Any repayment received from a claimant that is refunded during the quarter because of a redetermination, etc., must be subtracted from the amount shown if the original amount had already been entered.
 - a. Line 201. Outstanding at the Beginning of Period. Enter amounts of FPUC overpayments outstanding at the beginning of this report period. The amounts entered will always be the same as the amounts outstanding at the end of the preceding report period – line 207.
 - b. Line 202. Recovered –Total. Enter the amounts of all FPUC overpayments recovered.
 - c. Line 203. Waived. Enter the FPUC overpayment recoveries waived under federal law during the report period. Include only FPUC overpayments reported in Section A, either for the current quarter or a previous quarter. Do not include FPUC overpayments that the state agency no longer has the authority to recover because of expired statute of limitations (write-offs).
 - d. Line 204. Written-Off. Enter the amounts of all FPUC overpayments written-off under the state law during the report period.
 - e. Line 205. Additions. Enter the dollar amounts of FPUC overpayments adjusted upward which have been included in Section A for this report or any prior report

period. Such adjustments may be the result of redeterminations or appeal decisions that increase the amount of FPUC overpayments previously reported.

- f. Line 206. Subtractions. Enter the dollar amounts of FPUC overpayments adjusted downward which have been included in Section A for this report or any prior report period. Such adjustments may be the result of redeterminations or appeals decisions that decrease the amount in part or in total of FPUC overpayments previously reported.
- g. Line 207. Outstanding at the End of Period. Calculate the dollars outstanding as follows:
 - 1) UI Fraud Column 15.
 - i. Add lines 201 and 205 to line 101, Column 8.
 - ii. Add lines 202, 204, and 206.
 - iii. Subtract (ii) from (i).
 - 2) UI Non Fraud Column 22.
 - i. Add lines 201 and 205 to line 103, Column 8.
 - ii. Add lines 202, 203, 204, and 206.
 - iii. Subtract (ii) from (i).
 - 3) UCFE/UCX Fraud Column 16.
 - i. Add lines 201 and 205 to line 101, Column 9.
 - ii. Add lines 202, 204, and 206.
 - iii. Subtract (ii) from (i).
 - 4) UCFE/UCX Non Fraud Column 23.
 - i. Add lines 201 and 205 to line 103, Column 9.
 - ii. Add lines 202, 203, 204, and 206.
 - iii. Subtract (ii) from (i).
 - 5) EB Fraud Column 17.
 - i. Add lines 201 and 205 to line 101, Column 10.
 - ii. Add lines 202, 204, and 206.
 - iii. Subtract (ii) from (i).
 - 6) EB Non Fraud Column 24.

- i. Add lines 201 and 205 to line 103, Column 10.
 - ii. Add lines 202, 203, 204, and 206.
 - iii. Subtract (ii) from (i).
- 7) PEUC Fraud Column 18.
- i. Add lines 201 and 205 to line 101, Column 11.
 - ii. Add lines 202, 204, and 206.
 - iii. Subtract (ii) from (i).
- 8) PEUC Non Fraud Column 25.
- i. Add lines 201 and 205 to line 103, Column 11.
 - ii. Add lines 202, 203, 204, and 206.
 - iii. Subtract (ii) and (i).
- 9) PUA Fraud Column 19.
- i. Add lines 201 and 205 to line 101, Column 12.
 - ii. Add lines 202, 204, and 206.
 - iii. Subtract (ii) from (i).
- 10) PUA Non Fraud Column 26.
- i. Add lines 201 and 205 to line 103, Column 12.
 - ii. Add lines 202, 203, 204, and 206.
 - iii. Subtract (ii) from (i).
- 11) TRA Fraud Column 20.
- i. Add lines 201 and 205 to line 101, Column 13.
 - ii. Add lines 202, 204, and 206.
 - iii. Subtract (ii) from (i).
- 12) TRA Non Fraud Column 27.
- i. Add lines 201 and 205 to line 103, Column 13.
 - ii. Add lines 202, 203, 204, and 206.
 - iii. Subtract (ii) from (i).

13) DUA Fraud Column 21.

- i. Add lines 201 and 205 to line 101, Column 14.
- ii. Add lines 202, 204, and 206.
- iii. Subtract (ii) from (i).

14) DUA Non Fraud Column 28.

- i. Add lines 201 and 205 to line 103, Column 14.
- ii. Add lines 202, 203, 204, and 206.
- iii. Subtract (ii) from (i).

- h. Line 208, Recovered for Other States. Enter the FPUC amounts recovered by the state for other state agencies under the Combined Wage Claims (CWC) requirements or the Interstate Reciprocal Offset Recovery Arrangement (IRORA) requirements, and transferred out during the quarter. FPUC payments must be reduced to recover UC overpayments for other states if the state has signed the IRORA agreement. However, a state may not offset more than 50 percent from the FPUC payment to recover overpayments for other unemployment benefit programs. Note: figures on this line are not included in the calculations for line 207.

Comments. Explain significant variations from the norm.