EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unempolyment Insurance
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ADVISORY: **UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 20-20**

TO: STATE WORKFORCE AGENCIES

FROM: JOHN PALLASCH /s/
Assistant Secretary

SUBJECT: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Operating, Financial, and Reporting Instructions for Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week

1. **Purpose.** To provide states with operating, financial, and reporting instructions for the full federal funding of the first week of unemployment compensation (UC) authorized by section 2105, Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week, of the CARES Act of 2020, Public Law (Pub. L.) 116-136.

2. **Action Requested.** The Department of Labor's (Department) Employment and Training Administration (ETA) requests that State Workforce Administrators provide the information in this Unemployment Insurance Program Letter (UIPL) and the Attachments I through IV to appropriate program and other staff in state workforce systems as they implement the Unemployment Insurance (UI)-related provisions that respond to the economic effects of the Coronavirus Disease 2019 (COVID-19).

3. **Summary and Background.**

   a. Summary – On March 27, 2020, the President signed into law the CARES Act, which includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2105 of the CARES Act provides for full federal funding of the first week of regular UC for states with no waiting week.

   b. Background – The CARES Act was designed to mitigate the economic effects of the COVID-19 pandemic in a variety of ways. 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, summarizes the various provisions within the CARES Act.

RESCISSIONS	EXPIRATION DATE
None	Continuing

This UIPL focuses on section 2105 of the CARES Act, which authorizes full federal funding of the first week of regular UC for states with no waiting week and that have entered into an agreement with the Department pursuant to the section.

Importance of Program Integrity. The programs and provisions in the CARES Act operate in tandem with the fundamental eligibility requirements of the Federal-State UI program, which must be adhered to. In addition, some of the CARES Act programs include new eligibility requirements which states will need to apply. These requirements include that individuals are only entitled to benefits if they are no longer working through no fault of their own and that individuals must be able and available to work.

States play a fundamental role in ensuring the integrity of the UI program. While states have been provided some flexibilities as a result of COVID-19, those flexibilities are generally limited to dealing with the effects of COVID-19, as discussed in UIPL Nos. 10-20 and 13-20 through 18-20. States must ensure that individuals only receive benefits in accordance with statutory provisions.

Quitting work without good cause to obtain additional benefits under the regular UI program or the CARES Act is fraud. Section 2105(f) of the CARES Act cross-references the fraud and overpayment provisions included in section 2107(e), which expressly provides that if an individual has obtained benefits through fraud, the individual is ineligible for any additional benefit payments, must pay back the benefits, and is subject to criminal prosecution under 18 U.S.C. §1001. States are required to enforce these provisions.

The Department is actively working with states receiving funding under the CARES Act to provide UI benefits only to those who are entitled to such benefits. The Department is also actively engaged with its Office of the Inspector General (OIG) to ensure program integrity. The Act includes an appropriation of $26 million to the Department's OIG (section 2115) to carry out audits, investigations, and other oversight activities related to states' adherence to existing UI laws and policies, as well as the provisions of the CARES Act.

4. **Guidance.** Under section 2105 of the CARES Act, a state is eligible to enter into an agreement with the Department if the state law provides that compensation is paid to individuals for their first week of regular UC without a waiting week.

   The following section identifies the conditions under which states may enter into an agreement with the Department for reimbursement of the first week of regular UC, as well as important program dates and details about program administration. Attachment I sets forth the statutory language of section 2105 of the CARES Act. Attachment II provides general provisions for administering the temporary full federal funding of the first week of compensable regular UC under section 2105, including certifications and assurances. Attachment III and Attachment IV provide the Supplemental Budget Request (SBR) Application and the Instructions for Completing the SF-424 and SF-424A, respectively.

a. **Applicability of other programs and guidance.** As discussed in UIPL No. 10-20, *Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19)*, issued March 12, 2020, most states require that an individual, who is otherwise eligible for UC benefits, must first serve a waiting period (generally one week) prior to receiving benefits in a particular benefit year. However, federal law does not require a waiting period or waiting week provision.

   The President signed the Families First Coronavirus Response Act (Pub. L. 116-127) on March 18, 2020. That Act includes the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) set out in Division D. The Department provided guidance for implementation of the EUISAA provisions in UIPL No. 13-20, *Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020*, issued on March 22, 2020.

   EUISAA temporarily supersedes the existing federal Extended Benefits (EB) law that requires states to have a non-compensable waiting week to receive the federal share of EB funding of the first week. UIPL No. 13-20 discusses the requirement to modify or suspend the waiting week provision for a state to qualify, among other things, for Allotment II of the emergency administrative grants. UIPL No. 13-20 also discusses the temporary provision for states without a waiting week to receive the federal share of funding for the first week of EB.

b. **Eligibility to participate.** Under section 2105 of the CARES Act, a state may voluntarily enter into an agreement with the Department for the Federal Government to provide full reimbursement of regular UC paid to individuals by the state for their first week of unemployment, as well as any additional administrative expenses incurred by the state because of the agreement. To enter into such an agreement, section 2105(b) of the CARES Act requires that compensation be paid to an individual for his or her first week of regular unemployment without serving a waiting week.

   States without a waiting week provision in their existing state UC law may participate.

   States with a noncompensable waiting week provision in their existing state UC law may participate if they demonstrate the following actions:

   i. they have waived their waiting week provision pursuant to section 4102(h)(3)(B) of EUISAA, as described in UIPL No. 13-20; *or* they have amended their state law to provide that compensation be paid to individuals for their first week of regular unemployment without serving a waiting week; *and*
   ii. they have executed an agreement in effect with the Department providing for the section 2105 reimbursment.

   However, if a state’s UC law provides that the first week of unemployment becomes compensable at some later point in the claim series, or when certain other criteria are met (*e.g.*, after the claimant receives a certain number of weeks of benefits, or until the end of a claim series), the state does not meet the requirements to receive reimbursement pursuant to section 2105 of the CARES Act on the basis of this provision alone.

This program is available to the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, provided they have signed an agreement with the Department.

c. Important program dates. For states without a waiting week, reimbursement for the first week of regular UC is available for weeks of unemployment beginning after the date on which the state enters into an agreement with the Department. In states where the week of unemployment ends on a Saturday, the first week for which states may request reimbursement is the week of unemployment ending April 4, 2020, provided an agreement was in place no later than March 28, 2020. In states where the week of unemployment ends on a Sunday, the first week for which states may request reimbursement is the week of unemployment ending April 5, 2020, provided an agreement was in place no later than March 29, 2020.

The agreement is valid only if the state law (including a waiver of state law) making the first week compensable is in effect. The state may not seek reimbursement under section 2105 of the CARES Act for any weeks of unemployment that begin before the effective date of a waiver or a change in state law, even if the state law is worded to apply retroactively.

Reimbursement for the first week of regular UC for states is not available for any week of unemployment ending after December 31, 2020. Accordingly, in states where the week of unemployment ends on a Saturday, the last week for which states may request reimbursement is the week of unemployment ending December 26, 2020. For states where the week of unemployment ends on a Sunday, the last week for which states may request reimbursement is the week of unemployment ending December 27, 2020.

d. Funding. Benefit costs for this program are 100 percent federally funded. Administrative costs for this program are also 100 percent federally funded.

i. Accessing Benefit Funds. Under the CARES Act, for each state that has entered into an agreement with the Department for the federal reimbursement of the first week of regular UC paid to individuals, the Department will certify to the Treasury Department a monthly allotment projected to equal 100 percent of the estimated reimbursement required under the agreement.

As a state's drawdown of allotments is monitored, monthly amounts will be adjusted as needed. A state must request funds from the Federal Unemployment Account to reimburse the total amount of regular UC paid to individuals by the state for their first week of regular UC.

All requests must go through the Automated Standard Application for Payments (ASAP) system. There will be a new line in the ASAP for making drawdowns for first week reimbursement. The line will be labeled "WD For 2105 Temporary

Comp." Drawdown requests must adhere to the funding mechanism stipulated in the Treasury-State Agreement executed under the Cash Management Improvement Act of 1990. Requests will be funded in the same manner as all ASAP transactions elected by the states (Credit Gateway FEDWIRE or ACH to the state benefit payment account).

ii. Implementation costs. To request federal funds for administrative costs for implementing this program, the state must submit a Supplemental Budget Request (SBR) detailing such costs. This SBR is limited to one-time costs that are attributable to implementation of the section 2105 program.

Permissible implementation costs include:

- Computer programming and other technology costs;
- Implementation of necessary program business processes; and
- Overhead related only to the above.

The SBR application must include the basis for these estimated costs. Calculations for costs for state staff and contractors should be shown in accordance with the SBR instructions in ET Handbook No. 336, *Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines, 18th Edition*.

States should submit the SBR application for implementation of paying the first week of compensation, along with required SF-424 and SF-424A forms, by **May 29, 2020**. This may be submitted electronically to the National Office at covid-19@dol.gov, with a copy to the appropriate Regional Office. Instructions for submitting applications are found at Attachment III, SBR Application Template, and Attachment IV, Instructions for Completing the SF-424 and SF-424A.

e. Reporting Instructions. Reporting instructions for states receiving reimbursement for the first week of regular UC are as follows:

i. ETA 2112 (Office of Management and Budget) (OMB 1205-0154).

- Line 25. Include the amount of federal funds received for the first week of regular UC on line 25 labeled "Other", column C and column E, and indicate in the comments section that such deposit represented federal funds for of the first week of regular UC.

- Line 42d. Include the disbursement of federal funds for the first week of regular UC on line 42d labeled "Other Temporary Federal Compensation," column C and column F.

- Intra-account transfer. Include on Lines 47E and 16F amounts of federal funds used for payment of the first week of regular UC.

ii. ETA 9178-P. This form is a monitoring instrument for ETA to track a grantee's progress toward completing project activities related to SBR funding provided to states under section 4(d)(ii) of this UIPL.

As part of the monitoring process, grantees receiving supplemental grant awards must submit a Quarterly Progress Report (QPR) using the form ETA 9178-P. The form provides for narrative updates on supplemental grant activities to ETA and helps ensure that the grantee achieves the goals described in the supplemental grant application.

The instructions in Attachments II and III in UIPL No. 16-20, Change 1 provides the form and instructions for completing the ETA 9178-P, as well as the timeline for submitting these status reports.

Section 2116(a) of the CARES Act provides 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." Therefore, these instructions are considered final.

f. Record Maintenance and Disposal of Records.

i. Record Maintenance. Each state must maintain records during the administration of the section 2105 program and must make all such records available for inspection, examination, and audit by such federal officials, employees as the Department may designate, or as may be required by the law. Reference ET Handbook No. 401, *UI Report Handbook 5th Edition*, for details.

ii. Disposal of Records. The electronic/paper records created during the administration of the section 2105 program must be retained for three years after final action (including appeals or court action) on the payments, or for less than the three-year period if copied by microphotocopy or by an electronic imaging method. At the end of the three-year period, the section 2105 records must be transferred to state accountability under the conditions for the disposal of records that apply to UCFE and UCX records, as explained in Chapter X of ET Handbook No. 391, *Unemployment Compensation for Federal Employees (UCFE) Instructions for State Agencies*, and Chapter I of ET Handbook No. 384, *Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)*.

g. Termination of the agreement. Either party, upon thirty (30) days written notice, may terminate the reimbursement agreement under section 2105 of the CARES Act. The Department reserves the right to terminate this Agreement if it determines that the state does not have an adequate system for administering the section 2105 program, including because the state is not adequately ensuring that individuals receiving benefits under the program are eligible for such benefits. In the case of termination, the reimbursement period will end thirty (30) days from the date the state notifies the Secretary of its election to terminate the reimbursement program. No reimbursement will be provided for weeks of unemployment beginning after the date the termination of the agreement is effective. However, reimbursement will be provided for any weeks of unemployment that end prior to the termination.

In addition, the agreement will be terminated immediately upon the Secretary's determination that the state law (or a waiver) does not provide that compensation is paid to individuals for their first week of regular unemployment without a waiting week, and the state will be required to return any reimbursments made pursuant to section 2105 during the period that the state law or waiver was not in effect.

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

6. **References.**

- Sections 2105 and 2107 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. 116-136, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act;
- Families First Coronavirus Response Act (Pub. L. 116-127), including Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA);
- 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;
- 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;
- 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. 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. 16-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions*, issued April 5, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628;
- UIPL No. 16-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Reporting Instructions and Questions and Answers*, issued April 27, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899;
- UIPL No. 17-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020— Pandemic Emergency Unemployment Compensation (PEUC) Program Operating,*

Financial, and Reporting Instructions, issued April 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8452;

- ET Handbook No. 336, *Revisions to Employment and Training (ET) Handbook 336, 18th Edition, Change 3: "Unemployment Insurance (UI) State Quality Service Plan (SQSP) Planning and Reporting Guidelines*;"
- ET Handbook No. 384, *Handbook on Unemployment Compensation for Ex-Servicemembers (UCX) (1994 edition)*;
- ET Handbook No. 391, *Unemployment Compensation for Federal Employees (UCFE) Instructions for State Agencies (1994 edition)*; and
- ET Handbook No. 401, *UI Reports Handbook 401 (5th edition)*.

7. Attachments.

- Attachment I: Statutory Language of Section 2105 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020;
- Attachment II: General Provisions for Administering Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week;
- Attachment III: Supplemental Budget Request (SBR) Application; and
- Attachment IV: Instructions for Completing the SF-424 and SF-424A.