

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Unemployment Insurance
	<b>CORRESPONDENCE SYMBOL</b> OUI/DPM
	<b>DATE</b> July 14, 2022

**ADVISORY:** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 16-22

**TO:** STATE WORKFORCE AGENCIES

**FROM:** BRENT PARTON /s/  
Acting Assistant Secretary

**SUBJECT:** Announcement of the Pandemic Unemployment Assistance (PUA) Improper Payment Estimate Reviews and the cancellation of the 2022 Benefit Accuracy Measurement (BAM) Paid Claims Peer Reviews

1. **Purpose.** The purpose of this Unemployment Insurance Program Letter (UIPL) is to inform states that the 2022 BAM Paid Claims Peer Reviews are canceled and will be replaced by the PUA Improper Payment Estimate Reviews during the weeks of August 14-20, 2022, and September 18-24, 2022. Federal staff and state staff will review a sample of PUA cases provided by 26 states (half of the total sampled cases for the selected states to be reviewed per review) to establish an estimated national improper payment (IP) rate for the PUA program.
2. **Action Requested.** The information and instructions in this UIPL should be shared with all appropriate state staff.
3. **Summary and Background.**
  - a. Summary – The U.S. Department of Labor (Department) is required to estimate an improper payment (IP) rate for all programs lasting at least 12 months and are determined to be susceptible to significant improper payments. The PUA program meets this requirement. To accomplish this and report a statistically valid national IP rate by Fall 2022, the Department is using a case review methodology developed for this purpose. Under the Paperwork Reduction Act of 1995 (PRA), a valid OMB control number is required for the collection of information requests. In the case of the PUA Reviews, Section 2116 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act provides that the PRA does not apply to Subtitle A of Title II of Division A of the CARES Act<sup>1</sup>.

To carry out this review, the Department’s Employment and Training Administration (ETA) is cancelling the two BAM Paid Peer Reviews of state regular Unemployment Insurance (UI) program cases that were planned for July and September of 2022. In their place, the Department will utilize staff from all states that have historically participated in the BAM Paid Claims Peer Reviews and Federal staff to review a sample of PUA cases.

<sup>1</sup> Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, enacted March 27, 2020, Title II, Subtitle A, Section 2116

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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ETA is providing travel funds and staffing costs for **two participants from each state** in these reviews. **Attachment I** provides the Schedule for State Participants. **Attachment II** provides the State Designation Form for every state to complete and identify their representatives for the review. States should return their completed designation form to [PUA-Review@dol.gov](mailto:PUA-Review@dol.gov).

To calculate the PUA IP rate, 2,540 sampled PUA cases will be reviewed over the course of these two weeks. Sample cases will be selected from 26 states, including the ten states with highest PUA outlays that collectively represent 74 percent of all PUA outlays, and 16 randomly-selected states to develop a statistically valid national IP rate. **Attachment IV** identifies the 26 states that will provide the sampled PUA case files, and **Attachment III** provides the Document Request Form to be used in preparation of these case files.

ETA will provide additional funding for preparation of the case files, including staffing costs for the work hours involved in preparing case files. States may use contract staff to prepare and submit the sampled case files.

b. Background – *PUA Program*

The PUA program was created as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. Enactment of the Continued Assistance for Unemployed Workers Act of 2020 (CAA) in December 2020 and the American Rescue Plan Act (ARPA) in March 2021 extended the PUA program beyond 12 months to expire on September 6, 2021. From the beginning of the program through May 2022, states have paid over \$130.5 billion in PUA benefits (based on state reporting on the ETA 902P report).

All states signed an Agreement with the Secretary to administer the PUA program. The Agreement incorporates amendments to the CARES Act made by CAA and ARPA. The CARES Act UC programs expired on September 6, 2021, though some states chose to end participation earlier. States must process and pay benefits to eligible individuals under the CARES Act UC programs for all weeks of unemployment ending on or before the date of the Agreement termination or program expiration (whichever comes first). The state must also comply with all responsibilities with respect to claims filed under these programs for those weeks, including, without limitation, the requirements under the Agreement and in guidance.

*Requirement to Estimate Improper Payment Rate*

Following enactment of the Payment Integrity Information Act (PIIA) of 2019, the Office of Management and Budget (OMB) issued guidance in Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement. OMB guidance requires all Federal agencies to conduct risk assessments of all programs with annual outlays greater than \$10 million. Agencies must report IP estimates for programs lasting more than 12 months and identified as susceptible to significant IPs using a statistically valid sampling and estimation methodology plan. As provided in the PIIA, the Department conducted a risk assessment of the PUA program and identified it as susceptible to significant IPs. Therefore, the Department is required to calculate an estimated IP rate to be reported in Fall 2022 to comply with OMB guidance under PIIA.

The Department anticipates this new approach for estimating the improper payment for PUA can be replicated for similar future temporary programs, if needed.

#### 4. **The PUA Review.**

##### a. *Review Details*

The PUA Review will be conducted during two one (1)-week sessions:

- August 14 – 20, 2022; and
- September 18 – 24, 2022.

Each selected state is assigned to one of the specified weeks. See Attachment I for the Schedule for State Participants. Both PUA reviews will be conducted at the **Crown Plaza-Crystal City** facility in Virginia. **Review Participants are authorized and encouraged to travel on the Sunday before the review to ensure they are available to start the review at the beginning of the business day on Monday morning, and on the Saturday after the review to have a full business day of reviews on Friday, which is necessary to ensure all cases are reviewed during the week.** Review participants who require travel flexibility due to travel connection issues, are to contact the National Office using [PUA-Review@dol.gov](mailto:PUA-Review@dol.gov). The first session will begin at 8:00 a.m. on August 15, 2022, and conclude no later than 4:00 p.m. on Friday August 19, 2022. The second session will begin at 8:00 a.m. on September 19, 2022, and conclude no later than 4:00 p.m. on Friday September 23, 2022. State staff should plan to stay the entire time of the scheduled review. Dress code for the review is business casual.

Participants should contact the hotel directly to guarantee room reservations with an individual credit card. The rate for the first session is \$172 king suite and the rate for the second session is \$224, plus 14.5 percent estimated tax and \$5 hotel fee on each room night. Parking is \$20 per day. The quoted rate and room availability will be guaranteed until July 22, 2022 for the first session, and August 22, 2022 for the second session. Individuals may call **(703) 416-1600** and ask for group name “**USDOL PUA Review**” when making reservations, or online at: [USDOL PUA Review – August 2022](#) for the first session and [USDOL PUA Review - September 2022](#) for the second session. Travel arrangements should be made to facilitate participation in the **complete** review.

ETA is providing travel funds and staffing costs for **two** participants per state in these reviews. The state representatives must have appropriate UI experience, including knowledge of the various CARES Act programs, particularly PUA. Due to the expert experience level required in all UI programs, including CARES Act programs, it is essential that the PUA case reviewers selected by each state to represent the state at these reviews have experience in assessing payment accuracy or quality of state determinations, or working in a UI benefits operations unit. Participation from every state is critical, alongside Federal staff, to complete this volume of cases within the prescribed time frame.

##### b. *Covid-19 Protocols*

ETA will follow social distancing guidelines throughout the reviews, including the provision of masks, gloves, and sanitizers. In addition, the following protocols will also

be implemented in the event Covid-19 conditions change, which is based on guidelines from the Center for Disease Control (CDC):

- If the infectious level is “low” in the Washington DC area, the PUA review will follow the above protocols;
- If the infectious level in the Washington DC area is “medium”, participants will be strongly encouraged to wear face masks and will pick-up their cases and perform the review in their hotel room.
- In the event that the infectious level in the Washington DC area is “high”, ETA will inform participating states of alternative plans.

c. *Pre-Review Requirements*

All states will submit the form in Attachment II to identify the two designated reviewers, including their contact information and expected date(s) of arrival and departure. The completed form should be submitted to [PUA-Review@dol.gov](mailto:PUA-Review@dol.gov).

For the states selected to provide case samples, ETA will provide instructions and training for state information technology (IT) staff to complete the sampling selection process in a separate Notice. States selected to provide PUA sampled case files will ensure that their IT staff participates in the training related to this sample selection process.

States selected to provide case samples will:

- Provide a point of contact (POC) to receive the email regarding how to send the sampled case files through KiteWorks.
- Instructions regarding a PUA Claim File Checklist will be sent to states by separate communication, and includes the following:
  - States must include for each case file all case documentation associated with each of the PUA cases selected for review.
  - Prepare and save the sampled case files on the state system until the request to submit files is received in KiteWorks.
  - Submit the saved sampled case files to ETA using KiteWorks. States should submit the sampled case files within three days of receiving the submission request through KiteWorks.
  - The KiteWorks transmission tool is available at no cost. States may need to use staff time and/or engage a contractor to assist with case file preparation. ETA will provide these states with resources for such costs.
  - States must provide a short, written summary of its state’s laws, policies, rules, etc. as they relate to benefits, eligibility, and claimants’ responsibilities for the PUA program. The following information should be included in the summary:
    - How case files are organized and where to find key information, i.e., issue codes, initial claims filing method, claimed week filing method, and appeal status information;

- Background information on any unique interpretation of state law(s) that may become relevant during the review; and
- Copies of state policies and procedures manual, as applicable.

**This information must be sent using KiteWorks prior to the review. States will not be allowed to request or submit documents during the review. Therefore, states must provide all documents necessary to assess the propriety of the sampled PUA payments.**

d. *Onsite Review*

Methodology for the review is described in Section 5 of this UIPL. ETA will develop and conduct training for all PUA reviewers to ensure that reviewers correctly apply all state and Federal laws and policies relating to PUA eligibility when conducting the PUA payment reviews and maintain confidentiality.

ETA will provide the following resources on-site:

- PUA Review Worksheets;
- Resource information, including hard copies of state and Federal laws/policies, Department guidance, and CARES Act program progression chart;
- A hard copy/printed duplicate copy of the selected PUA cases to be reviewed; and
- A Table Lead/POC Federal staff assigned to each reviewing table to facilitate handling questions/concerns about the sampled case file(s), and to ensure the security of case files being reviewed. Question(s) on cases will be addressed by contacting assigned Table Leads/Point of Contacts (POCs), and contact information will be provided.

e. *State Funding*

ETA is providing the necessary resources and funding to carry out the PUA review and will reimburse the states for the following costs to conduct the PUA Review:

1. file preparation covering the cost for the selected 26 states to prepare and send files to ETA's National Office (States may use contract staff to prepare and submit these sampled case files);
2. travel cost for all PUA review participants (Lodging, Air/Rail/Bus/Car, Tax, Federal Rate for Meal and incidentals, and Parking (if used)); and
3. staffing costs for the work hours for all PUA review participants, as well as for applicable Information Technology staff for the 26 states that are submitting claims for review. Reimbursement for staff time based on the Resource Justification Model allocations.

5. **PUA Review Methodology.** Due to the limited sample size, the Department will not calculate an IP rate estimation for individual states. ETA determined that the current sample size is appropriate to obtain a statistically valid national estimate, while limiting the burden on states. The sample size is only sufficient to calculate a ***national*** estimated IP rate.

- ***Selection of states to provide sample cases.*** To obtain a statistically valid sample of cases for calculating a national PUA IP rate, ETA has determined that a total of 2,540 PUA cases must be reviewed. To achieve this sample size, ETA has selected 26 states whose PUA claims will be used for the PUA review. This includes the ten states with the highest PUA outlays that will be included with certainty in the selected case universe as they account for approximately 74 percent of all PUA outlays. The additional sixteen states were randomly selected from the remaining forty-two states (including Puerto Rico and the District of Columbia<sup>2</sup>) that participate in the BAM Paid Claims Peer Reviews. See Attachment IV.
- ***Period of review.*** The period of review begins at the start of PUA eligibility (January 20, 2020) and continues until the state's termination of participation or program expiration (whichever comes first). The changes in eligibility requirements through CAA and ARPA are fully incorporated into the review methodology. The CAA extended the PUA program and made several changes to the program, including addition of the requirement that anyone who receives a payment of PUA on or after December 27, 2020 (CAA's enactment date) must submit documentation substantiating employment or self-employment.
- ***Selection of sample cases within the states.*** The 10 states with the highest PUA outlays will provide 190 cases each, the 16 randomly selected states will provide 40 cases each. ETA developed an application that will be provided to states to randomly select cases for review. The National Office will use a random process to identify the weeks from which a state's PUA samples will be selected. States will only be required to apply the methodology to their PUA case database. Additionally, ETA will provide the participating states with funding to cover the IT programming, staff hours, and production costs involved with this sampling process.
- ETA will contact the designated state POCs to inform them when they are able to begin the sampling process.
- The review scope for this PUA review process is limited to the records submitted by the states. No external investigation (e.g., communication with parties) will occur. No external factfinding will be conducted. Reviewers are bound by the facts and/evidence contained in the state records.

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<sup>2</sup> The sampling excludes the Commonwealth of the Northern Marianas Islands, Guam, American Samoa, U.S. Virgin Islands, Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia. The PUA outlays for these jurisdictions are significantly low making it unlikely that their samples would make a statistically significant difference in the National IP rate estimation, when compared to the cost and burden of their participation in the reviews. In addition, these jurisdictions have not participated in prior BAM reviews.

- At the scheduled PUA reviews, state and Federal staff will be assigned cases to be reviewed using a worksheet and resources developed by ETA that guide the reviewer through the review process and to the conclusion of whether the PUA payment was proper. State staff will have access to case materials of other states solely during the course of the PUA review and solely for the purpose of ETA calculating an estimated national IP rate for PUA. Specific instructions for participants on properly securing case information will be provided during review participant training to ensure no unauthorized individuals are able to access the case files. Additionally, all cases will be “signed out” and “signed in” to ensure that all files are accounted for each day as needed throughout each day during the review, and reviewers must abide by all instructions for securing case information.
  - Federal staff will enter the results of each case as it becomes available during the review.
  - At the end of the review, reviewers will no longer have access to the reviewed paper case materials, and all paper case files will be collected for onsite destruction/shredding. However, the electronic case files will be retained by ETA in a secure restricted location according to its document retention requirements.
  - Due to the limited sample size, a statistically valid IP estimate cannot be produced for the individual states that are submitting case files for review. The sample size is only sufficient to calculate a statistically valid ***National*** estimated IP rate.
6. **Inquiries.** If you require additional information or assistance, please contact us via email at [PUA-Review@dol.gov](mailto:PUA-Review@dol.gov), or your Regional Office.

7. **References.**

- American Rescue Plan Act, Pub. L. 117-2, enacted March 11, 2021;
- Continued Assistance for Unemployed Workers Act of 2020, Pub. L. 116-260, enacted December 27, 2020;
- Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, enacted March 27, 2020;
- Payment Integrity Information Act of 2019, Pub. L. 116-117, enacted March 2, 2020; and
- Appendix C to Circular No. A-123, *Requirements for Payment Integrity Improvement*, M-21-19, published March 5, 2021.

8. **Attachments.**

- Attachment I – Schedule for State Participants
- Attachment II – Staff Designation Form
- Attachment III – Document Request Form for Sample Case Files
- Attachment IV – Selected States to Provide PUA Case Files