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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 14-05, CHANGE 1

TO: STATE WORKFORCE AGENCIES

FROM: CHERYL ATKINSON s/s
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SUBJECT: Performance Criterion for the Overpayment Detection Measure; Clarification of Appeals Timeliness Measures; and Implementation of Tax Quality Measure Corrective Action Plans (CAPs)

1. **Purpose.** To inform State Workforce Agencies (SWAs) of the measurement method and the Acceptable Level of Performance (ALP) for the detection of overpayments measure; to clarify the methods for measuring the average age of pending lower and higher authority appeals; and to clarify the implementation schedule for Tax Quality Measure CAPs.
2. **References.** Unemployment Insurance Program Letter (UIPL) 14-05, Changes to UI Performs, dated February 18, 2005, and ET Handbook No. 401, 3rd Edition, Change 13, Changes to Form 9055: Appeals Case Aging, dated April 18, 2005.
3. **Background.** UIPL 14-05 described changes to the UI Performs performance management system, some of which required additional data collection, analysis, and policy decisions before full definitions and ALPs could be determined. The measures of overpayment detection and the average age of pending appeals were among those for which ALPs were deferred.
4. **Average Age of Pending Appeals.** Subsequent to the issuance of UIPL 14-05, the Department of Labor (DOL) received authority to collect data on the age

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of pending lower and higher authority appeals. Instructions for the data collection were issued in Handbook 401, Change 13, dated April 18, 2005. That instruction limits the data collection to single-claimant appeals. To assure consistency among the advisories, the descriptions of Core Measures No. 8 “Average Age of Pending Lower Authority Appeals” and No. 9 “Average Age of Pending Higher Authority Appeals” in attachment C to UIPL 14-05 are being modified to make clear that the measures apply to single-claimant appeals, and that the reported data include the median age of all pending single-claimant appeals. The modified pages are attached to this advisory and should be used to replace the original pages. ALP criteria are not yet established.

5. Detection of Overpayments. UIPL 14-05 defines the new Core Measure, Detection of Overpayments, as the percent of detectable/recoverable overpayments established for recovery. Because the measure was new, DOL deferred setting a performance level criterion until data for the measure could be assessed. The full definition and the ALP for the measure are presented here.

a. The Measure. The measure is a ratio of the 3-year moving average of overpaid dollars a state actually established for recovery as a percent of the 3-year moving average of estimated detectable and recoverable overpayments.

- The numerator is the 3-year average amount of actual overpaid dollars that are established for recovery as reported on the ETA 227 report, Overpayment Detection and Recovery Activities (also known as Benefit Payment Control (BPC) activities). Penalty dollars are excluded. The numerator is subject to measurement variability.
- The denominator is a sample-based estimate of operational overpayments obtained from three years of Benefit Accuracy Measurement (BAM) data. The denominator is subject to both sampling and measurement variability.

The data collection period of the numerator (BPC data) begins and ends six months after the denominator (BAM data) to allow sufficient time to detect and establish overpayments identified through the wage-benefit crossmatch.

b. Acceptable Level of Performance. The ALP for the Overpayment Detection Core Measure is 50 percent. This is a minimum performance

level that all states are expected to meet; it is not a goal. States are encouraged to set overpayment detection goals that exceed this level.

The ALP will apply to a 3-year average of performance so that the denominator (estimated operational overpayments) will be based on a larger BAM sample, thus reducing sampling variability and improving the precision of individual state estimates. The 3-year time period also minimizes the effect of differences between the time that overpayments are actually detected and established and the occurrence of errors estimated by BAM, and it reduces the measurement variability in BPC overpayment establishment data. National performance has averaged near 56 percent for the last 3 years, and two-thirds of the states have attained performance levels exceeding 50 percent.

- c. Upper Limit. For monitoring purposes, DOL has established an upper limit of 95 percent. States cannot generally detect and establish more than 80%-90% of estimated overpayments. When a higher ratio occurs, the cause is likely, but not certainly, the result of inaccurate BPC reporting and/or less-than-thorough BAM investigations that result in inaccurate (low) estimates. However, a state may establish overpayments in categories that are excluded from the operational rate, such as work search issues and Employment Service registration issues. Because these are excluded from the denominator (BAM estimates) but are included in the numerator (BPC establishments), the detection ratio can be higher than expected.
- d. Corrective Actions. The cycle of the UI Performs management system requires planning ahead, and the implementation of the changes in the measures must be done in a systematic way so that the state partners know in advance what is expected of them. Because implementation began in 2005, the three year criteria for the overpayment detection measure will not be effective until 2008. The performance period includes BPC data from April 2005 through March 2008 and BAM data from October 2004 through September 2007. DOL will expect any state with performance falling below 50 percent to submit a CAP as part of its State Quality Service Plan (SQSP) for Fiscal Year (FY) 2009. In the interim DOL will expect any state reporting an overpayment detection rate below 50% to explain the reasons for the low performance in the Narrative section of the SQSP.

Because the measure is based on a 3-year average, poor performance in an early year will remain in the calculation and continue to depress the ratio even as performance improves. To recognize improved performance, a

state whose performance in the most recent performance year meets or exceeds the ALP will not be expected to address performance of the overpayment detection measure in the SQSP for the next fiscal year.

DOL will expect any state reporting an overpayment detection rate above 95% to explain the reasons for the very high performance in the Narrative section of the SQSP. If the high performance is the result of a failure to properly administer BAM or BPC activities, then the state also must submit in the SQSP a CAP designed to produce valid data for the Overpayment Detection Measure. A CAP is required because the administration of BAM and BPC has a direct bearing on this Core Measure.

6. Tax Quality Measure. As discussed in UIPL 14-05, states are expected to complete CAPs for the Tax Quality Core Measure if either of two (2) conditions exist:

- Four (4) or more functions fail the Tax Performance System (TPS) review in a calendar year (CY), or
- One (1) function fails the TPS review in three (3) consecutive years.

This advisory clarifies the implementation dates for Tax Quality Measure CAPs.

- a. Failure of four or more functions: DOL expects any state failing four or more tax functions during the CY 2005 TPS review to produce a CAP for its FY 2007 SQSP.
- b. Failure of 1 function in three consecutive years: As with the overpayment detection measure, DOL will expect any state failing the same tax quality function in three consecutive years to submit a CAP as part of its SQSP beginning with the SQSP for FY 2009. The three-year period began with CY 2005. In the interim, states will address failing the same tax quality function in three consecutive years in the Narrative section of the SQSP.

7. Action.

- a. Distribute this document to all appropriate SWA staff.
- b. In UIPL 14-05, replace Core Measures: No. 7 "Detection of Overpayments", No. 8 "Average Age of Pending Lower Authority Appeals", and No. 9 "Average Age of Pending Higher Authority Appeals" in Attachment C with the attached Core Measures pages.

8. Inquiries. Direct inquiries to your regional office.

9. Attachments.

- A. Core Measures Attachment C to UIPL 14-05, No. 7 Overpayment Detection
- B. Core Measures Attachment C to UIPL 14-05, No. 8 Average Age of Pending Lower Authority Appeals
- C. Core Measures Attachment C to UIPL 14-05, No. 9 Average Age of Pending Higher Authority Appeals

Core Measures

7. Detection of Overpayments

Measure:	Percent of estimated detectable, recoverable overpayments (dollars) established for recovery.
Change:	This measure is new in UI Performs.
Data Source:	Benefit Accuracy Measurement (BAM) and ETA 227, Benefit Payment Control (BPC) reports.
Computation and Criterion:	<p>The measure is a ratio of overpaid dollars a state actually established for recovery as a percent of the estimated amount of detectable recoverable overpayments.</p> <p>The numerator is the amount of actual overpaid dollars that are established for recovery, as reported on the ETA 227 report.</p> <p>The denominator is a sample-based estimate of Operational Overpayments obtained from the BAM data. The denominator is subject to sampling and measurement variability.</p> <p>The ALP for the Detection of Overpayments Core Measure is 50%, using a 3-year average of the measure.</p> <p>The upper limit of performance is 95%.</p>
Reporting Categories:	None.
Reporting Frequency:	Quarterly.

Details for the Computation of the Detection of Overpayments Measure

The amount of overpayments actually established through state BPC operations as a percent of the amount that the BAM program estimates states can detect and establish for recovery through BPC operations.

$$\text{UI Payment Accuracy Measure} = \frac{\text{Overpayments Established (BPC)}}{\text{Estimated Overpayments (BAM)}} \times 100$$

The data collection period of the numerator (BPC data) begins and ends six months after the denominator (BAM data) to allow sufficient time to detect and establish overpayments identified through the wage-benefit crossmatch and appeals reversals.

BAM Operational Overpayment Rate Definition

The BAM estimate is an “operational overpayment rate.” The operational rate includes those overpayments that are generally agreed to contain overpayment errors that the states can be reasonably expected to detect and establish for recovery. Certain categories of overpayments are excluded from this rate: work search issues, Employment Service registration issues, base period wage issues, and certain miscellaneous causes. The BAM operational overpayment rate includes UI benefits that BAM determined were overpaid and meet the following criteria:

Key Week Action (BAM b_errisu table data element ei2)

The code that specifies the type of overpayment error that the BAM investigation identifies for the compensated week of unemployment (referred to in BAM as the key week).

10 = Fraud overpayment / voided offset

11 = Nonfraud recoverable overpayment / voided offset

Error Cause (b_errisu table data element ei3)

BAM assigns each payment error a cause code. The following causes are **included** in the BAM operational overpayment rate:

(a) In the **Benefit Year**, unreported or errors in reporting/recording earnings or days/hours of work affecting the Key Week due to:

100 = Unreported (concealed) earnings or days / hours of work

110 = Earnings or days / hours of work incorrectly estimated, reported, recorded or deducted

120 = Errors in reporting or unreported Severance Pay

130 = Errors in reporting or unreported Vacation Pay

140 = Errors in reporting or unreported Social Security or Pension Benefits

150 = Other causes related to reporting or recording of earnings or days / hours of work

(b) **Separation** Issues due to:

300 = Voluntary Quits

310 = Discharges

320 = Other causes related to separation issues

(c) **Eligibility** Issues due to:

400 = Ability to work

410 = Availability for work

430 = Refusal of suitable work

440 = Self-employment

450 = Illegal alien status

470 = Other causes related to eligibility issues

480 = Identity theft

(d) **Dependents' Allowances** incorrect due to:

500 = Dependents' information incorrectly reported / recorded or allowance incorrectly calculated

510 = Other causes related to dependents' allowances

The following overpayment errors are **excluded** from the BAM operational overpayment rate:

Key Week Action (BAM b_errisu table data element ei2)

12 = Nonfraud nonrecoverable overpayment or official action taken to adjust future benefits by decreasing weekly benefit amount (WBA), maximum benefit amount (MBA), dependents' allowance (DA), or remaining balance (RB)

13 = BAM determines payment was too large, although payment is "technically" proper due to finality rules

14 = BAM determines payment was too large except for formal warning rule that prohibits official action. Payment "technically" proper due to law / rules requiring formal warnings for unacceptable work search efforts

15 = BAM determines payment was too large, although payment "technically" proper due to rules other than finality or formal warning rule

16 = Overpayment established or WBA, MBA, DA or RB decreased which was later "officially" reversed, revised, adjusted, or modified and BAM disagrees with "official" action (e.g., Appeals unit reverses BAM determination and BAM disagrees)

The following causes are **excluded** from the BAM operational overpayment rate:

Error Cause (b_errisu table data element ei3)

(a) In the **Base Period**, errors in reporting / recording earnings or weeks, days, or hours of work affecting the key week due to:

200 = Earnings or weeks / days / hours of work incorrectly estimated, reported, or recorded

210 = One or more base period employers not reported by claimant

220 = Other causes related to errors in reporting or recording earnings or weeks / days / hours of work for base period

(b) **Eligibility** Issues due to:

420 = Active work search
460 = Job Service registration

(c) **Other** Causes due to:

600 = Benefits paid during a period of disqualification, even though a stop-pay order was in effect

610 = Redetermination (at deputy level) or reversal (appeal or higher authority)

620 = Back pay award

630 = All other causes

Estimated Amount Overpaid and Weighting

BAM records the total whole dollar amount of the overpayment error for the compensated week of unemployment (key week) as determined by the BAM investigation. Dollars that affect weeks other than the key week are excluded. This information is coded in **Dollar Amount of Key Week Error (b_errisu table data element ei1)**.

This amount is multiplied by a weight to estimate the amount that the overpayment error represents in the population. The weight is equal to the number of weeks of unemployment compensation paid during the week that the BAM sample was selected (**b_comparison table data element cm2**) divided by the number of completed BAM sample cases for that week. For example, if the state issued 5,000 UI payments during the week, and BAM sampled and investigated 10 payments, each completed case would carry a weight of 500 (5,000 / 10).

The weighted amounts overpaid are summed for the 52 weekly samples and divided by the weighted amount of UI benefits paid to the claimants in the sample (**b_master table data element f13**). This ratio is then multiplied by the amount of UI benefits paid in the population of UI weeks paid from which the samples were selected (**b_comparison table data element cm4**). The result is the estimated UI overpayments that states should be able to detect and establish for recovery through BPC.

Amount of Overpayments Established

The amount of UI overpayments established through BPC is reported on the ETA 227 report, line 110, columns 4 (UI) + 5 (UCFE/UCX), excluding penalty assessed for fraud, reported on line 109, columns 4 + 5.

Core Measures

8. Average Age of Pending Lower Authority Appeals

Measure:	The mean and median of all pending single-claimant Lower Authority Appeals.
Change:	This measure is new in UI Performs. It takes the age of all pending single-claimant appeals into account and allows prediction of and planning for future performance.
Data Source:	Universe of pending single-claimant Lower Authority Appeals, ETA 9055.
Computation and Criterion:	<p>At the close of business on the last day of each month, access the universe of pending single-claimant Lower Authority Appeals. Determine actual age of each pending single-claimant Lower Authority Appeal by counting days elapsed from the date of filing to the date of count. Sum actual age in days of all pending single-claimant Lower Authority Appeals and divide by the total number of pending Lower Authority Appeals to arrive at the average age.</p> <p>Determine the median age of all pending single-claimant lower authority appeals using the following formula. If all of the pending appeals cases (lower or higher authority) are ranked from the lowest to the highest age, the median is the age of the case at the midpoint of the ranked cases. If there is an odd number of cases (n), the median is the age of the $[(n+1)/2]^{th}$ case. If there is an even number of cases (n), the median is the value midway between the age of the $(n/2)^{th}$ case and the $[(n/2)+1]^{th}$ case.</p> <p>The criterion will be determined after twelve months of data have been recorded.</p>
Reporting:	Report the average age and median age as determined by the above computations.
Reporting Categories:	None.
Reporting Frequency:	Monthly

Core Measures

9. Average Age of Pending Higher Authority Appeals.

Measure:	The mean and median of all pending single-claimant Higher Authority Appeals.
Change:	This measure is new in UI Performs. It takes the age of all single-claimant pending appeals into account and allows prediction of and planning for future performance.
Data Source:	Universe of pending single-claimant Higher Authority Appeals, ETA 9055.
Computation and Criterion:	<p>At the close of business on the last day of each month, access the universe of pending single-claimant Higher Authority Appeals. Determine actual age of each pending single-claimant Higher Authority Appeal by counting days elapsed from the date of filing to the date of count.</p> <p>Sum actual age in days of all pending single-claimant Higher Authority Appeals and divide by the total number of pending single-claimant Higher Authority Appeals to arrive at the average age.</p> <p>Determine the median age of all pending single-claimant higher authority appeals using the following formula. If all of the pending appeals cases (lower or higher authority) are ranked from the lowest to the highest age, the median is the age of the case at the midpoint of the ranked cases. If there is an odd number of cases (n), the median is the age of the $[(n+1)/2]^{th}$ case. If there is an even number of cases (n), the median is the value midway between the age of the $(n/2)^{th}$ case and the $[(n/2)+1]^{th}$ case.</p> <p>The criterion will be determined after twelve months of data have been recorded.</p>
Reporting:	Report the average age and median age as determined by the above computations.
Reporting Categories:	None.
Reporting Frequency:	Monthly