

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI Performs
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 14-05,
CHANGE 2

TO: STATE WORKFORCE AGENCIES

FROM: EMILY STOVER DeROCCO /s/
Assistant Secretary

SUBJECT: Performance Criteria for Appeals Case Aging Measures and the Starting
Date for Measuring Nonmonetary Determinations Time Lapse

1. **Purpose.** To solicit comments on establishing the Acceptable Level of Performance (ALP) for the average age of pending single claimant lower and higher authority appeals and to provide results from an analysis of the starting parameter for measuring the timeliness of nonmonetary determinations.
2. **References.** Unemployment Insurance Program Letter (UIPL) 14-05, Changes to UI Performs, dated February 18, 2005; UIPL 14-05, Change 1, Performance Criterion for the Overpayment Detection Method; Clarification of Appeals Timeliness Measures; and Implementation of Tax Quality Measure Corrective Action Plans (CAPs), dated October 12, 2005; and ET Handbook 401, 3rd Edition.
3. **Background.** UIPL 14-05 and UIPL 14-05, Change 1 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. At the time of these policy issuances, the measure for the average age of pending appeals for both lower authority and higher authority was among those for which ALPs were deferred until sufficient data had been collected. Instructions for the data collection were issued in Handbook 401, Change 13, (April 18, 2005),

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and State Workforce Agencies (SWAs) were advised to begin reporting the new data elements with the June 2005 report.

UIPL 14-05 also described a proposal to change the starting parameter of the measure of nonmonetary determination timeliness from issue-detection date (IDD) to the week-ending date (WED) of the first week affected by the determination. Due to comments received from SWAs, the Employment and Training Administration (ETA) deferred the decision to change the reporting parameter until after an analysis was conducted to determine whether SWAs could substantially improve their reporting of the IDD date.

4. **Average Age of Pending Lower Authority and Higher Authority Appeals.** UIPL 14-05 defined the new Core Measure for lower and higher authority appeals--Average Age of Pending Appeals--as the average number of days that unresolved single claimant cases are pending. Because the measurement methodology was new, ETA deferred setting performance-level criteria until data for the measures could be assessed. The full definition and the ALPs for the measures are presented here.

- a. **Measurement.** The measure is the average age of all pending single-claimant appeals at the end of the measurement period. Lower authority appeals and higher authority appeals are each measured using the following methodology.
- The average age of unresolved cases is calculated by first determining the number of days each unresolved appeals case has been pending.
 - Next, the total number of days for all unresolved cases is obtained by summing the ages of the pending cases.
 - Finally, the total number of days is divided by the number of unresolved cases to produce the average case age.

For example, if a state had 500 cases unresolved on the last day of the month, and 150 were five days old, 200 were 20 days old, 50 were 35 days old, and 100 were 210 days old, the sum of the number of days pending would be $750+4,000+1,750+21,000$ for a total of 27,500 days. $27,500/500 = 55$ days average age.

SWAs will also continue to collect and report the median age of cases to assist in analysis of the data. When all of the pending appeals are arrayed from youngest to oldest, the median age is the middle number.

- b. **Performance Data.** All states successfully reported data on the average age of both lower and higher appeals for at least 12 months. As of April 2006, the national average age for pending lower authority cases was 52 days. This high

average age is in large part attributable to six states¹ in which the average age of lower authority appeals exceeds 60 days. Most states, however, dispose of appeals more quickly. The average age of pending lower authority appeals in 38 states was 35 or fewer days, and the average age in 18 of those states was fewer than 20 days.

Typically, processing time for higher authority appeals is longer than it is for lower authority appeals. As of April 2006, the national average age for pending cases was 58 days. This high average is primarily attributable to very high average ages in six states² whose average ages is 140 or more days. However, in 28 states the average age of higher authority appeals was 34 or fewer days, and the average age of the appeals in 11 of those states was under 20 days.

c. Proposed ALPs. The proposed ALPs for the average age of appeals are:

- Lower Authority Appeals: 30 days
- Higher Authority Appeals: 40 days

To determine whether the ALPs have been met, the average age of pending appeals will be measured as of March 31, the last day of the performance year. Using the average as of March 31, avoids the possibility of good performance in the early part of the twelve month period masking poor performance late in the period. It also prevents states being required to submit a CAP if poor performance in the early part of a twelve-month period has been remedied prior to the end of the period.

d. Effective Date. ETA proposes to make the ALPs for the lower authority appeals and higher authority appeals case aging measures effective for Performance Year 2008 (April 1, 2007 – March 31, 2008). SWAs that do not meet the ALPs for this period will be expected to submit corrective action plans (CAPs) with their Performance Year 2009 State Quality Service Plan (SQSP). By April 2007, states should have had sufficient time to make any necessary operational changes and, based on current numbers of new appeals filed and cases disposed, the national backlog will be significantly reduced.

5. Nonmonetary Determinations Timeliness. SWAs calculate the elapsed time between the date on the nonmonetary determination and the date the agency first detected the issue to measure how quickly they adjudicated an issue affecting a claimant's eligibility for UI benefits. Nonmonetary determinations made within 21 days of the IDD are considered timely, and ETA considers a state's performance to

¹ Colorado, Maine, Ohio, Connecticut, Puerto Rico and Hawaii

² Maine, New Hampshire, North Carolina, Ohio, South Carolina and Virginia

be acceptable if 80 percent of all nonmonetary determinations are completed within 21 days. States, however, often improperly record the IDD, thereby casting doubt on the validity of the nonmonetary determination time lapse data computed using IDD.

During the 5-year review of UI Performs, ETA proposed changing the starting parameter for the timeliness measure to the WED of the first week affected, which most states record correctly. Most of the SWA comments on the recommendation to change the starting point indicated that the IDD is the better date because it marks the time at which the SWA has control of disposal of the issue. Comments also expressed concern that using the WED could potentially penalize SWAs that have liberal claims-backdating policies. Consequently, ETA conducted an analysis to determine whether states could substantially improve recording the IDD.

- a. Analysis. To be within an acceptable error range for data validation, a sample of 30 nonmonetary determinations must have fewer than 5 incorrect dates recorded; a sample of 50 must have fewer than 6 incorrect dates recorded. Thirty-five states exceeded the allowable number of incorrect dates for two or more quarters during the 2004 performance year (April 2003 – March 2004). Each of those states was notified of the deficiency along with a request to conduct an internal study of the causes of the deficiency and to take corrective action. After providing the states sufficient time to implement their corrective actions, ETA reviewed the IDD data to determine if data accuracy had improved. The analysis found that improvement in recording the IDD was inconsistent across the 35 states. However, further analysis of data from all SWAs revealed that, although many consistently use the incorrect date for the IDD, the errors had only a marginal effect on whether a SWA met the timeliness measure, either because the incorrect dates were still within the 21-day criterion or because errors above and below the criterion canceled one another out. An example illustrates this result: The state erroneously reports the IDD to be 12 days before the date on the determination, well within the 21-day criterion. The true IDD is 20 days before the date on the determination, but still within the 21-day criterion for timeliness. Although the data from which timeliness is measured are inaccurate, the magnitude of the error is not large enough to adversely affect the state's nonmonetary determination timeliness performance.
- b. Nonmonetary Determinations Timeliness Policy. Because poor recording of the IDD proved to have only a marginal effect on the timeliness measure and because the IDD is a good measurement parameter from an administrative perspective, ETA will continue to use the IDD as the starting parameter for calculating the UI Performs time lapse measure for all nonmonetary determinations. ETA will also validate the IDD for each state as part of the preparation for the SQSP process each year to determine whether the state needs

to address the validity of these data in the SQSP. SWAs with invalid data will be required to take corrective action to record IDD correctly. If the magnitude of the error in the states' reporting is large enough to call into question the integrity of the nonmonetary determination timeliness data, ETA will not publish the state's nonmonetary determination timeliness results.

6. **Action.** State Workforce Agency administrators are requested to 1) review and comment on the proposed ALPs for lower authority and higher authority appeals; and 2) provide the name, phone, fax, and e-mail address for the person who can answer questions or provide further information about the comment and recommendation. Please submit comments no later than 45 days from the date of this advisory. Address mailed or faxed comments to:

Cheryl Atkinson, Administrator
Office of Workforce Security
U.S. Department of Labor
Room S4231
Washington, DC 20210

Attention: Mary Vransy
Fax number: 202-693-3975

E-mail comments are welcome and should be directed to Mary Vransy at vransy.mary@dol.gov.

7. **Inquiries.** Direct inquiries to your regional office.