

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> UI Performs
	<b>CORRESPONDENCE SYMBOL</b> OWS/DPM
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**ADVISORY:** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 14-05,  
CHANGE 3

**TO:** STATE WORKFORCE AGENCIES

**FROM:** BRENT R. ORRELL /s/  
Acting Assistant Secretary

**SUBJECT:** Acceptable Levels of Performance (ALP) Criteria for Appeals Case Aging  
Measures and Nonmonetary Determination Quality Review

1. **Purpose.** To inform states of the acceptable levels of performance criteria for the average age of pending lower and higher authority appeals core measures, to update the current minimum passing score for nonmonetary cases and the sampling rules for the measure of nonmonetary determinations quality. This is also to remind states that the regulatory requirements remain in effect for lower authority appeals promptness.
2. **References.** 20 CFR 650.4(b); UIPL No. 14-05, Changes to UI Performs, dated February 18, 2005; UIPL No. 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; UIPL No. 14-05, Change 2, Performance Criteria for Appeals Case Aging Measures and the Starting Date for Measuring Nonmonetary Determinations Time Lapse; Handbook 301, 5<sup>th</sup> Edition – UI Performs: Benefits Timeliness and Quality (BTQ) Nonmonetary Determinations Quality Review, Revised July, 2005; and ET Handbook 401, 4<sup>th</sup> Edition.
3. **Background.** UIPL No. 14-05 and UIPL 14-05, Changes 1 and 2, described changes to the UI Performs performance management system, some of which required additional data collection and analysis. At the time of these issuances, the ALPs for the average age of pending appeals for both lower authority appeals and higher authority appeals were deferred until sufficient data had been collected. States were advised of the instructions for the data collection in Handbook 401, Change 13, dated April 18, 2005. States were also advised to begin reporting the new data elements for the month of June 2005. In UIPL No. 14-05, Change 2, states were

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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requested to review and comment on the proposed case aging ALPs for lower authority and higher authority appeals. All states have successfully reported data on the average age of both lower and higher authority appeals for at least 12 months.

4. **Highlights of the Comments.** Sixteen states responded, and most addressed both lower authority and higher authority appeals in their comments. The comments fell into several categories: overall support or opposition, the level of performance that has been proposed, the measurement itself, effective date, quality concerns, and alternative measures. Although comments received about specific aspects were mixed, states' comments were generally favorable regarding a case aging measure for lower authority and higher authority appeals. Overall nine states support the measure, and two states oppose it. One state offered support for the measure for lower authority and opposition for higher authority; support or opposition was not expressed by four states.

The proposals that generated the most comments are discussed briefly below along with the Department of Labor's (DOL) responses. See Attachment A, for specific comments and DOL's response. All comments were considered in making the final changes to the case aging ALP.

- a. *Acceptable Average Age.* Of the 16 states responding, eight states commented on the 30 day ALP for lower authority appeals case aging. Four states generally regarded the proposed criterion as achievable; three states wanted an increase in the number of days for lower authority. One state suggested setting the criterion at fewer than 30 days.

The proposed 40 day average age criterion for higher authority appeals was of more concern to the commentators. Eight states believe that the higher authority appeals case aging ALP should be less stringent. Suggestions for a change to the number of days ranged from "greater than 40" to a maximum of 60 days.

*DOL Response:* One of the cornerstones of the unemployment insurance system is promptness. Appeals should be scheduled as quickly as administratively possible. Delays in processing appeals may cause hardship for the parties and can lead to overpayments.

The data indicate that most states can meet the ALPs that have been set. For calendar year 2007, the national average age for pending lower authority cases was 39.4 days. This national average age is inflated by four states where the average age exceeds 50 days. Most states, however, dispose of appeals more quickly. The average age of pending lower authority appeals in 36 states was 30 or fewer days, and the average age in 15 of those states was fewer than 20 days.

Processing time for higher authority appeals is longer than for lower authority appeals. For calendar year 2007, the national average age for pending cases was 61.4 days. This reflects very high average ages in three states. However, in 30 states the average age of higher authority appeals was 38 or fewer days, and the average age of appeals in 11 of those states was under 20 days.

To view the state rankings of core measures, visit DOL's Web site at:  
<http://ows.doleta.gov/unemploy/ranking.asp>

- b. **Alternative Measure.** Six states commented that there should be an alternative measure. Some suggested that a sliding scale be developed taking into account caseload, resource limitations and economic conditions. Other states wanted these variables as part of the measurement, with one state calling for a multiple regression model. Another state suggested a two-step measure, with two standards being established depending on the administrative rules of the state.

*DOL Response:* In order to ensure comparability across states and to afford claimants in all states the same expectation of timely disposition of their appeals, a single ALP for case aging has been implemented for this measure.

- c. **Effective Date.** Two states wanted the effective date of the measure reconsidered. Both states thought that April 1, 2007, was too soon and more discussion on the proposed measurement was necessary.

*DOL Response:* The effective date of the measure was changed to April 1, 2008, to provide states more time to develop the necessary systems for collecting and reporting the required data.

5. **Average Age of Pending Lower Authority and Higher Authority Appeals.** UIPL No. 14-05, defines the new Core Measure for lower and higher authority appeals -- Average Age of Pending Appeals, as the average number of days unresolved single claimant cases are pending. Because the measurement methodology was new, ETA deferred setting acceptable levels of performance until data for the measure could be assessed. The full definition and the ALPs for the measure are presented below:

- 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.

- b. Acceptable Level of Performance. The 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 avoids the need for corrective action plans (CAPs) if poor performance in the early part of the year has been remedied by the end of the period.

- c. Implementation Date. The ALPs for the lower authority appeals and higher authority appeals case aging measures are effective for Performance Year 2009 (April 1, 2008 – March 31, 2009) and thereafter. States that do not meet the ALPs for this period will be expected to submit CAPs with their Performance Year 2010 State Quality Service Plan (SQSP).

6. **Regulatory Requirements for Appeals Promptness.** The regulatory requirements for lower authority appeals promptness are found in 20 CFR Part 650.4(b). These requirements remain in effect, and failure to meet them will require corrective action. These requirements are:

60% of Lower Authority Appeals decided within 30 Days of Filing  
80% of Lower Authority Appeals decided within 45 Days of Filing

7. **Nonmonetary Determination Quality Review.** As part of the review of UI Performs, DOL convened a federal/state workgroup to study and recommend changes to the Benefits Timeliness and Quality (BTQ) nonmonetary determination quality review. DOL issued a revised BTQ nonmonetary determinations review handbook (Handbook 301, 5<sup>th</sup> Edition) July 29, 2005, to include changes resulting from the study. To assure consistency, the descriptions of Core Measure No. 5,

“Nonmonetary Determination Quality: Separation Issues” and Core Measure No 6, “Nonmonetary Determinations Quality: Nonseparation Issues” in attachment C to UIPL No. 14-05 have been modified to clarify the minimum passing score for each case in the quality review, and provide instructions for assuring an adequate sample size when case materials cannot be found.

8. **Action.** State Administrators are requested to:
  - a. Distribute this document to all appropriate SWA staff.
  - b. In UIPL No. 14-05, replace Core Measures: Page 5 “Nonmonetary Determinations Quality: Separation Issues,” Core Measures: Page 6 “Nonmonetary Determinations Quality: Nonseparation Issues,” Core Measures: Page 8 “Average Age of Pending Lower Authority Appeals,” and Page 9 “Average Age of Pending Higher Authority Appeals” in Attachment C with the attached Core Measures pages.
9. **Inquiries.** Direct inquiries to the appropriate regional office.
10. **Attachments.**

Attachment A - Comments on the Proposed Acceptable Level of Performance for Appeals Case Aging Measures.

Note - There is no attachment B to this UIPL No 14-05, Change 3

Attachment C - UIPL No. 14-05 contained an Attachment C, *Core Measures*. Below are replacement pages to Attachment C of UIPL No. 14-05, dated February 15, 2005:

- Page 5 Nonmonetary Determinations Quality: Separation Issues
- Page 6 Nonmonetary Determinations Quality: Nonseparation Issues
- Page 8 Average Age of Pending Lower Authority Appeals
- Page 9 Average Age of Pending Higher Authority Appeals