

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION EUC08
	CORRESPONDENCE SYMBOL OUI/DUIO
	DATE August 13, 2010

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-10, Change 4

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Emergency Unemployment Compensation Program Extension and Modification

1. Purpose. To respond to questions about the extension of and modifications to the Emergency Unemployment Compensation, 2008 (EUC08) program and to advise states of a change to Unemployment Insurance Program Letter (UIPL) No. 04-10, Change 3, about states' responsibilities when individuals are entitled to unemployment benefits in more than one state.
2. References. The Unemployment Compensation Extension Act of 2010 (Extension Act), Public Law (P.L.) No. 111-205, enacted July 22, 2010; the Continuing Extension Act of 2010, P.L. No. 111-157; the Supplemental Appropriations Act of 2008, P.L. No. 110-252; Sections 2002 and 2005 of Division B, Title II, the Assistance for Unemployed Workers and Struggling Families Act, P.L. No. 111-5; Section 303(a)(1), Social Security Act; UIPL No. 04-01; Nos. 23-08 and 23-08, Changes 1, 2, 3, 4, 5, and 6; No. 07-09; Nos. 11-09 and 11-09, Change 1; Nos. 12-09 and 12-09, Change 1; and Nos. 04-10 and 04-10, Changes 1, 2, and 3.
3. Background. P.L. No. 111-205 modified, in limited situations, the EUC08 requirement that individuals must exhaust all regular UC¹ entitlement before receiving EUC08. As of the date of enactment of the Extension Act, continued payment of EUC08 is permissible when an individual qualifies for regular UC in a subsequent benefit year if the regular UC weekly benefit amount (WBA) payable on that subsequent benefit year is sufficiently lower than the EUC08 WBA, and all of the requirements, specified below, are met.

Individuals may be eligible to continue to receive EUC08 instead of regular UC, but only when the following four "threshold" criteria are met:

- 1) the individual is entitled to EUC08 with respect to a benefit year;
- 2) that benefit year has expired after the date of enactment (July 22, 2010) of the Extension Act;
- 3) the individual has remaining entitlement to EUC08 with respect to that benefit year; and

¹ While the Supplemental Appropriations Act uses the term "regular compensation" to refer to state unemployment compensation, this guidance will, for brevity, use the term "regular UC."

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

- 4) the individual would qualify for regular UC in a subsequent (new) benefit year and the regular UC WBA on the new benefit year would be at least either \$100 or 25 percent less than the individual's EUC08 WBA.

States must determine whether these individuals will be paid EUC08 or regular UC by selecting one of four options (State EUC08 Option) specified in UIPL 04-10, Change 3.

Note: This new provision of Federal law is not retroactive, and the selected State EUC08 Option is not subject to appeal by affected individuals. State Appeal Tribunals do not have jurisdiction in this matter.

4. Individuals with Potential Entitlement to Regular UC in another State. For the purposes of this guidance, the "EUC08 State" is the state in which the individual is currently collecting EUC08. The "Regular UC State" is the state(s) in which the individual has potential eligibility for regular UC.

In administering the State EUC08 Options under the Extension Act for individuals who have potential entitlement to regular UC in a state other than the EUC08 State, some new special procedures are required. However, generally, EUC08 States will still continue to follow existing state processes and procedures in advising individuals of potential new entitlement to regular UC in another state, including established state procedures for combined wage claims (CWC). This guidance takes into account the following:

- Only the Regular UC State can accurately determine the WBA for individuals who may qualify for regular UC in that state. Therefore, for those individuals who meet all four threshold criteria, the Regular UC State's EUC08 Option will determine whether or not these individuals continue receiving EUC08.
- As mentioned above, existing state procedures must be followed by the EUC08 State in notifying individuals that they have potential entitlement to regular UC in another state. To continue receiving benefits (in this case, either EUC08 or regular UC) individuals who have potential eligibility in another state must contact the Regular UC State within 10 business days from the date of the notification sent to the individual and the Regular UC State will determine whether they qualify for the State EUC Option.

When an individual has potential eligibility in two or more other states, the EUC08 State will follow existing CWC procedures in allowing the individual to select the "paying state," which will become the Regular UC State. That state must determine the individual's entitlement for regular UC on the basis of wages reported to that state alone and on the basis of combining all states' wages for the individual (if combining wages would increase the WBA) during that state's base period. The Regular UC State will then determine whether the WBA threshold criterion (criterion #4 in Item 3 above) is met, using the CWC WBA if it is higher than the "uncombined" WBA. The Regular UC State (called the "paying state" for CWC purposes) will advise the EUC08 State of whether or not the State EUC Option applies to the individual.

Note: This is a change from what was stated in UIPL 04-10, Change 3 (see Q&A C.2.). In order to qualify under the State EUC08 Option for continued payment of EUC08, an individual must meet all four criteria in only one state, i.e., the "paying state," which is selected by the individual under the existing CWC rules. However,

to continue to receive benefits (either EUC08 or regular UC) the individual must contact the Regular UC State (paying state) within 10 business days, as noted above.

- EUC08 States may only temporarily suspend (within a very limited window of time; i.e., until the end of the week in which the payment “is due”) EUC08 payments pending the Regular UC State’s determination of whether or not the fourth threshold criterion is met (i.e., the new regular UC WBA is at least \$100 or 25 percent lower than the EUC08 WBA). However, if the Regular UC State does not make a prompt determination whether EUC08 payments will continue (and then advise the EUC08 State), the EUC08 State must pay EUC08 when due (based on the previous determination of eligibility) and inform the individual that these benefits may later become overpaid if the individual is not eligible to continue receiving EUC08 under the State EUC08 Option (see UIPL No. 04-01, dated October 27, 2000).
- Regular UC States that have selected either Option A or Option B as the State EUC08 Option must advise the EUC08 State to continue paying EUC08 if the threshold criteria are met. (These states must either defer payment on the regular UC claim or “put wages on hold” depending on the selected State EUC08 Option). (Refer to UIPL No. 04-10, Change 3.)

As previously mentioned, the selected State EUC08 Option is not subject to appeal by affected individuals.

- Regular UC States that have selected Option D as the State EUC08 Option must advise individuals who have been referred by the EUC08 State (and who meet all four threshold criteria) of their option to either continue receipt of EUC08 or establish the new benefit year and begin certifying for regular UC in that state. The individuals must advise the Regular UC State of their option within 10 business days and the state must document the individual’s selected option. Only those states that selected Option D must provide affected individuals a choice of whether to continue EUC08.

Note: The responsibility to advise these individuals of their options lies with the Regular UC State that has selected Option D because: 1) Regular UC States will have the new benefit year claim information necessary to inform individuals of their options, and 2) Regular UC States that selected Option D, will already have established procedures in place to provide all affected individuals in the state this same option.

As previously mentioned, the selected State EUC08 Option is not subject to appeal by affected individuals.

- Administering this new provision will require new data exchanges between states and all states should consider using “UI Mail,” the secure unemployment insurance application on the states’ Interstate Connection (ICON) network for this purpose.

Attachment 2 to this UIPL provides additional information to help clarify the roles of the EUC08 State and the Regular UC State. Attachment 3 to this UIPL lists the state’s selected State EUC08 Options. No State chose Option C.

The EUC08 State must notify (through any existing means used by the state) those individuals who have potential entitlement to regular UC in another state that:

- 1) the benefit year on their claim either has expired or will expire;
 - 2) they have remaining EUC08 entitlement (states may also include the amount of the remaining balance in the individual's EUC08 account);
 - 3) continued receipt of benefits (whether EUC08 or regular UC) requires that individuals contact the Regular UC State within 10 business days;
 - 4) failure to contact the Regular UC State within 10 business days may result in a suspension of EUC08 payments. The EUC08 State may make this notification through any methods currently used by the state to provide similar notifications to individuals receiving benefits;
 - 5) the Regular UC State will determine whether individuals qualify for a new claim and whether they meet the criteria to qualify for the State EUC Option; and
 - 6) EUC08 benefits may become overpaid if the individual does not qualify for the State EUC08 Option (i.e., the regular UC WBA is not at least \$100 or 25 percent less than the EUC08 WBA).
5. Administrative Funding. Each state will receive \$40,000 to cover administrative costs to implement changes under the Extension Act. These funds will be made available with the third quarter above base funds anticipated to be released around the first week in September, 2010.
 6. Interpretation. This document is issued to the states and cooperating state agencies as guidance provided by the Department in its role as the principal in the EUC08 program. As agents of the Federal government, the states and cooperating state agencies shall not deviate from this guidance without the prior approval of the Department. To the extent that the prior guidance (as outlined in 2. *References* above) is inconsistent with this UIPL, this UIPL supersedes that guidance.
 7. Action Requested. State Administrators are requested to provide this guidance to appropriate staff.
 8. Inquiries. Questions should be directed to the appropriate Regional Office.
 9. Attachments.

Attachment 1—Questions and Answers

Attachment 2—Potential Entitlement to Regular Unemployment Compensation (UC) in Another State

Attachment 3—List of Selected State EUC08 Options by Individual State