

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
	CORRESPONDENCE SYMBOL OUI/DL
	DATE October 30, 2014

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 3-15

TO: STATE WORKFORCE AGENCIES

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Confidentiality of Unemployment Compensation Appeals Information

1. **Purpose.** To remind states of the U.S. Department of Labor’s (Department) interpretation of the confidentiality requirement for unemployment compensation (UC) appeals information and to clarify when confidential UC information in UC appeals records may be disclosed to the public under 20 CFR 603.5(b).
2. **References.**
 - Section 303(a) of the Social Security Act (SSA), 42 U.S.C. 503(a); and
 - 20 CFR part 603.
3. **Background.** Section 303(a)(1), SSA, requires, as a condition of states receiving grants for the administration of their UC programs, that state law contain provisions for “such methods of administration...as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.” As explained in 20 CFR 603.4(b), the Department interprets the “methods of administration” provision to require that state law include provision for “maintaining the confidentiality of any UC information which reveals the name or any identifying particular about any individual or any past or present employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars.” A state law must also include provisions for barring disclosure of confidential UC information unless the disclosure is permitted or required as provided in the regulation. (See 20 CFR 603.4(b).)

Confidential UC information required to be protected under section 603.4(b) includes “information in the records of a State or State UC agency that pertains to the administration of the State UC law,” as well as claim information. (See 20 CFR 603.2(b) and (j).) Claim information is defined in section 603.2(a)(1) to include: information on whether an individual has applied for UC; the individual’s address; and “other information contained in the records of the State UC agency that is needed by the requesting agency to verify eligibility for, and the amount of, benefits.”

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4. **Permissible Disclosures Prior to Appeals Hearing.** Notwithstanding the confidentiality requirements described in section 3, and recognizing the value of public, open hearings, Federal regulations permit disclosure of certain information concerning a UC claim appeal before an appeal hearing is held if state law so provides. Specifically, states may publish appeals hearing dockets that provide only the information necessary for the hearing to be public: the names of the parties and the date, time, and place where the hearing will be held. No personally identifiable information, including addresses and telephone numbers for claimants or employers, or claim information such as the reason for a claimant's separation, may be included on published appeals hearing dockets or any other disclosure of appeals information before the issuance of a decision on appeal.
5. **Permissible Disclosures After Appeals Hearing.** Section 603.5(b) provides that states may make public "appeals records and decisions, and precedential determinations on coverage of employers, employment, and wages . . . provided all social security numbers have been removed and such disclosure is otherwise consistent with Federal and State law."

The Department interprets this provision to mean that only final decisions may be disclosed, along with the records of the hearings (that is, documents placed in the record during the hearing) that led to the final decisions. Accordingly, a disclosable hearing record does not come into existence until the hearing officer issues a decision. The contents of the hearing record are not themselves subject to disclosure under section 603.5(b) except as part of a final hearing record. Appeals records and decisions may be disclosed only if state law provides that these decisions are part of the public record, and only after the hearing has been conducted and the decision issued.

6. **Action Requested.** State administrators are requested to provide the above information to appropriate staff.
7. **Inquiries.** Please direct inquiries to the appropriate Regional Office.