

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Unemployment Insurance
	<b>CORRESPONDENCE SYMBOL</b> OUI/DL
	<b>DATE</b> August 3, 2021

**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-17, Change 1**

**TO: STATE WORKFORCE AGENCIES**

**FROM: SUZAN G. LEVINE /s/  
Acting Assistant Secretary**

**SUBJECT: Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or Misconduct to the Department of Labor’s (Department) Office of Inspector General’s (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits**

1. **Purpose.** This Unemployment Insurance Program Letter (UIPL): (1) advises states that they must refer allegations which they reasonably believe constitute UC fraud, waste, abuse, mismanagement, or misconduct to DOL-OIG; (2) rescinds UIPL No. 29-05; (3) provides revised guidance that supersedes Section 5 of UIPL No. 04-17; and (4) requires states to disclose confidential UC information related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as amended, to the DOL-OIG for the purpose of UC fraud investigations and audits for the entire pandemic relief period.
2. **Action Requested.** The Department’s Employment and Training Administration (ETA) requests that State Administrators provide the information in this UIPL to appropriate program and other staff in state workforce agencies involved in the cross-functional integrity task force, Benefit Payment Control, Internal Security (IS), and other integrity-related operations.
3. **Summary and Background.**
  - a. Summary – This UIPL provides a description of state responsibilities for notifying DOL-OIG of allegations which the state reasonably believes constitutes UC fraud, waste, abuse, mismanagement, or misconduct. Attachment I provides a memorandum from DOL-OIG that: i) describes DOL-OIG’s process for accepting and reporting fraud, waste, abuse, or misconduct referred by states; ii) describes DOL-OIG’s process for notifying states of the DOL-OIG’s information requirements; and iii) sets forth states’ responsibilities under the Inspector General (IG) Act.

<b>RESCISSIONS</b> UIPL No. 29-05	<b>EXPIRATION DATE</b> Continuing
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This UIPL rescinds and replaces UIPL No. 29-05, *Memorandum of Understanding Regarding Unemployment Insurance Criminal Investigations between the U.S. Department of Labor's Office of Inspector General and the Employment and Training Administration*, issued August 2, 2005.

This UIPL also supersedes Section 5 of UIPL No. 04-17, *Disclosure of Confidential Unemployment Compensation (UC) Information to the Department of Labor's Office of Inspector General (OIG)*, issued on December 16, 2016.

Additionally, Section 5 of this UIPL expands the description of responsibilities in Section 4 of this UIPL to require disclosure of confidential UC information for both UC fraud investigations and audits within the context of the CARES Act, as amended, including administering Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Mixed Earners Unemployment Compensation (MEUC), and receiving full federal funding for the first week of regular UC for states with no waiting week in accordance with Section 2105 of the CARES Act, as amended. This required disclosure includes all weeks of unemployment covered by the CARES Act programs, which for most states will be weeks of unemployment beginning after January 27, 2020 through weeks of unemployment ending before September 6, 2021. This includes claims for these weeks of unemployment even if states are not able to process them until after September 6, 2021.

- b. Background – As discussed in UIPL No. 04-17, states must disclose confidential UC information to DOL-OIG for the purpose of investigating UI fraud, as a condition for proper and efficient administration of the UC program under Section 303(a)(1) of the Social Security Act (SSA). Furthermore, as ETA Grant Recipients, states are responsible for reporting instances of fraud as described in Training and Employment Guidance Letter (TEGL) No. 02-12, *Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct*.

DOL-OIG has a statutory mandate under the Inspector General Act (Pub. L. 95-452, as amended), other laws, and delegations by the U.S. Attorney General and Secretary of Labor to detect and prevent fraud, waste, and abuse in the Department's programs and operations. To carry out this mandate, DOL-OIG has the authority to conduct audits and investigations to discover fraud, waste, and abuse or inefficiencies, and to refer any findings to the appropriate program manager for action, or to the U.S. Department of Justice, U.S. Attorney, or cognizant prosecutor for criminal or civil prosecution.

ETA and states must continuously assess the UI program's vulnerabilities and seek new ways to ensure its integrity. In 2005, ETA and DOL-OIG executed a Memorandum of Understanding (MOU) to highlight DOL-OIG's role in investigating cases of fraud and other crimes in the UI program. The MOU defined the types of fraud required to be reported to the DOL-OIG and established monetary thresholds for states to refer cases to DOL-OIG. DOL-OIG agreed to assume responsibility for investigating certain fraud

cases that meet the established criteria and, upon request, to assist states in certain other incidences of fraud or abuse.

DOL-OIG plays an essential role in working collaboratively with states to investigate fraud in state UI programs. Over the years, joint investigations between DOL-OIG and states have led to successful prosecutions and monetary recoveries. Many of these investigations include successfully pursued sophisticated multi-state fraud schemes by organized criminal groups involving millions of dollars in fraudulent claims.

Additionally, the CARES Act (Pub. L. 116-136), enacted on March 27, 2020, provides, among other things, for states to enter into an agreement with the Secretary to administer the PUA, FPUC, and PEUC programs. States without a waiting week may also enter into an agreement with the Secretary to receive full federal funding of the first week of compensable regular UC. Section 2115 of the CARES Act included an appropriation to DOL-OIG to carry out audits, investigations, and other oversight activities related to the UI provisions of the CARES Act. Section 2116 of the CARES Act provides authority for ETA to issue operating instructions or other guidance necessary to carry out the UI-related provisions of the CARES Act. *See* UIPL No. 14-20. The Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act), set forth at Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), extended the dates for states to administer these programs and provided for states to also enter into an agreement with the Secretary to administer the MEUC program. *See* UIPL No. 09-21. The American Rescue Plan Act of 2021 (ARPA) (Pub. L. 117-2) further extended the dates for states to receive federal funding for the first compensable waiting week for regular UC and to administer the PUA, FPUC, PEUC, and MEUC programs through September 6, 2021. *See* UIPL No. 14-21.

4. **Guidance.** States must maintain a steadfast focus on UI program integrity broadly, and the prevention and detection of fraud and improper payments across all UI programs. States must adhere to federal laws and guidance establishing program eligibility requirements and the fundamental processes that ensure accurate benefit payments. UIPL No. 29-05 is now rescinded.
  - a. **State Responsibilities.** States are required to comply with the reporting and UC information disclosure processes outlined in the attached DOL-OIG memorandum. These reporting processes apply to all new and existing allegations which the state reasonably believes constitute fraud, waste, abuse, mismanagement, or misconduct.

This section supersedes Section 5 of UIPL No. 04-17. There is no federal requirement that state UI agencies must enter into an agreement with DOL-OIG before any disclosures of confidential UC information are made for the purposes of investigating UC fraud, including in 20 C.F.R. Part 603. In addition, if a state makes a permissive disclosure of confidential UC information under 20 C.F.R. Part 603.5(i) for audits of UC programs, there is also no federal requirement for an agreement.

States also have a responsibility to report without delay any suspected cases of fraud or abuse to their own state investigative agencies as required by state laws or regulations.

- b. **Payment of Costs for Disclosure of Information.** Reimbursement for the costs of states providing the information to DOL-OIG is not required, as disclosure of this information for the purpose of investigating UC fraud is necessary for the proper and efficient administration of the UC program. In addition, if a state makes a permissive disclosure of confidential UC information under 20 C.F.R. 603.5(i) for audits, reimbursement for the costs of states providing the information to DOL-OIG is not required. See 20 C.F.R. 603.8.
- c. **Redisclosure Parameters.** The DOL-OIG memorandum provided in Attachment I provides that DOL-OIG will “redisclose data and information only when necessary for purposes consistent with the IG Act, Privacy Act, and other applicable federal laws and regulations”. For purposes of UC programs, this includes the regulations set forth at 20 C.F.R. 603.9(c).

5. **Guidance Specific to Administration of the CARES Act UC Programs.** Within the context of administering PUA, FPUC, PEUC, MEUC, and full federal funding of the first week of regular UC for states with no waiting week that is reimbursed in accordance with Section 2105 of the CARES Act, as amended, states must disclose all information to DOL-OIG for the purposes of investigating UC fraud and for audits of UC programs. Within this context, states must adhere to the guidance provided in Section 4 of this UIPL.

States must also disclose all confidential UC information, including for the regular UC program, for audits for weeks covered by the CARES Act programs, which for most states will be weeks of unemployment beginning after January 27, 2020 through weeks of unemployment ending before September 6, 2021. This includes claims for these weeks of unemployment that states are not able to process until after September 6, 2021.

Further, there is no federal requirement that state UI agencies must enter into an agreement with DOL-OIG before any disclosures of confidential UC information are made for the purposes of investigating UC fraud and for audits of UC programs, including in 20 C.F.R. Part 603.

6. **Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.

7. **References.**

- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);

- Section 303(a)(1), SSA (42 U.S.C. 503(a)(1));
- Inspector General Act of 1978, Pub. L. 95-452, as amended;
- 20 C.F.R. Part 603 – *Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information*;
- UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5669](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669);
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) - Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3831](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831);
- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3390](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390);
- UIPL No. 04-17, *Disclosure of Confidential Unemployment Compensation (UC) Information to the Department of Labor’s Office of Inspector General (OIG)*, issued December 16, 2016, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7523](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7523);
- TEGP No. 02-12, *Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct*, issued July 12, 2012, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=9222](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9222);
- UIPL No. 29-05, *Memorandum of Understanding Regarding Unemployment Insurance Criminal Investigations Between the U.S. Department of Labor’s Office of Inspector General and the Employment and Training Administration*, issued August 2, 2005, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=2104](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2104); and
- UIPL No. 04-01, *Payment of Compensation and Timeliness of Determinations during a Continued Claim Series*, issued October 27, 2000, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=1746](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1746).

## 8. Attachment(s).

- Attachment I: DOL-OIG Memorandum dated July 30, 2021, “Referral of Suspected Unemployment Insurance Fraud, Abuse, and Other Misconduct to the U.S. Department of Labor, Office of Inspector General, and Notification of Requirement for State Unemployment Insurance Information”