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| EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210 | CLASSIFICATION Unemployment Insurance |
| | CORRESPONDENCE SYMBOL OUI/DUIO |
| | DATE October 30, 2024 |

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 02-12, Change 3

TO: STATE WORKFORCE AGENCIES

FROM: JOSÉ JAVIER RODRÍGUEZ /s/ Assistant Secretary

SUBJECT: Retirement of the Combined Wage Claim (CWC) 02-12 Application from the Unemployment Insurance (UI) Interstate Connection Network (ICON)

1. **Purpose.** To inform states of the discontinuation of the CWC 02-12 application in UI-ICON and provide an alternative method for paying states to communicate to the transferring state(s) an employer’s failure to timely or adequately respond to State Workforce Agencies’ (SWA) requests for information relating to a CWC.
2. **Action Requested.** The Department of Labor’s (Department) Employment and Training Administration (ETA) requests SWA administrators provide the information contained in this Unemployment Insurance Program Letter (UIPL) to the appropriate staff and arrange for an alternate method for communicating these occurrences to the transferring state(s).
3. **Summary and Background.**
 - a. Summary – The CWC 02-12 application, hosted by the National Association of State Workforce Agencies (NASWA) UI-ICON system, was developed to provide an efficient, secure, and expedient method for states to communicate an employer’s failure to respond timely and adequately to requests for information relating to CWCs. In recent years, this functionality has been rarely used and it will be retired effective **December 1, 2024**.

States are advised there is no change in the requirement for the paying state to communicate an employer’s failure to timely and adequately respond to the SWA’s request for claim information to the transferring state(s). ETA encourages states to utilize UI-ICON UIMail for this notification.

- b. Background – Section 3303(a)(1) of the Federal Unemployment Tax Act (FUTA), governs the conditions under which a state may reduce employers’ rates of contributions to its unemployment fund. Many states relieve an employer’s unemployment account of charges (e.g., benefits or benefit wages) that the state determined were made improperly. Section 252(a) of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) (Public Law (Pub. L.) 112-40), enacted on October 21, 2011, added a new subsection (f)

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| RESCISSIONS None | EXPIRATION DATE Continuing |
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to section 3303, FUTA, to provide that, for a state law to meet the requirements of section 3303(a)(1), FUTA, the state must not relieve an employer of charges (noncharging) when the employer, or an agent of the employer, does both of the following:

- “was at fault for failing to respond timely or adequately to the request of the [state] agency for information relating to [a] claim” for unemployment compensation (UC) benefits that was subsequently overpaid; and
- “has established a pattern of failing to respond timely or adequately” to requests from the state agency for information relating to claims for UC benefits. (See UIPL No. 02-12 for more information.)

As explained in UIPL No. 02-12, Change 2, each state is responsible for determining its own standard for what constitutes a “pattern” under these TAAEA provisions. CWC claims inherently involve employers from two or more states. In cases where an overpayment is attributable to an employer covered by the UC law of the paying state, the paying state determines whether the employer or its agent has established a “pattern.” Conversely, if the overpayment is attributable to an employer covered by the UC law of a transferring state, the transferring state must apply its own standard to establish a “pattern.” In cases where a paying state determines that a benefit overpayment is due to an out-of-state employer’s failure to respond timely or adequately to the paying state’s request for information, the paying state must promptly communicate its determination to the appropriate transferring state to determine if a “pattern” exists.

To this end, the Department, in partnership with NASWA developed the UI-ICON CWC 02-12 application to enable the paying state to promptly communicate its determination that an overpayment is the result of the failure of an employer covered by the UC law of the transferring state to timely or adequately respond to the paying state’s request. Since its creation, states have demonstrated that the CWC 02-12 application is not a valuable resource and have rarely used it to convey information about an employer’s failure to timely or accurately respond.

The Department has supported a project to modernize the UI ICON system, which began in April of 2022 and is discussed in Training and Employment Notice No. 03-24.

4. **Guidance.** As NASWA continues modernization of the UI-ICON system, applications that are rarely used or obsolete are being retired. As a result, the CWC 02-12 application will no longer be available in UI-ICON effective December 1, 2024.

The retirement of the CWC 02-12 application has no impact on the requirements of the TAAEA and paying states must continue to communicate to the transferring state an employer’s failure to timely and adequately respond to the paying state’s request for claim information. ETA strongly encourages states to utilize UI-ICON UIMail for this notification. UIMail is a closed, secure system accessed through UI-ICON that allows authorized state users to send and receive email to other authorized state users across the UI system.

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

6. **References.**

- Trade Adjustment Assistance Extension Act of 2011 (TAAEA), Pub. L. 112-40, (19 U.S.C. § 2101), enacted October 21, 2011;
- Federal Unemployment Tax Act (FUTA) Section 3301 (26 U.S.C. § 3301);
- UIPL No. 02-12, *Unemployment Compensation (UC) Program Integrity – Amendments made by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA)*, issued December 20, 2011, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-02-12>;
- UIPL No. 02-12, Change 2, *Unemployment Compensation (UC) Program Integrity Provisions – Amendments made by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) – Combined Wage Claim (CWC) Program Questions and Answers*, issued October 15, 2014, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-02-12-change-2>; and
- TEN No. 03-24, *Announcing the Availability of Real-Time Services in Production for the Modernized Unemployment Insurance (UI) Interstate Connection Network (ICON)*, issued August 9, 2024, <https://www.dol.gov/agencies/eta/advisories/ten-03-24>.

7. **Attachment(s).** N/A.