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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 09-25

TO: STATE WORKFORCE AGENCIES

FROM: JOSÉ JAVIER RODRÍGUEZ /s/
Assistant Secretary

SUBJECT: New Instructions for Data Retention Requirements Concerning the Coronavirus Aid, Relief, and Economic Security (CARES) Act Unemployment Compensation (UC) Programs

1. **Purpose.** To provide urgent instructions to State Workforce Agencies (SWAs) on data retention requirements for temporary pandemic-related UC programs, authorized under the CARES Act, as amended. This guidance reflects a change in policy and replaces prior guidance on this specific topic.
2. **Action Requested.** The U.S. Department of Labor’s (Department) Employment and Training Administration (ETA) requests state administrators provide the information contained in this Unemployment Insurance Program Letter (UIPL) to the appropriate staff, including information technology staff supporting Unemployment Insurance (UI) operations.
3. **Summary and Background.**
 - a. Summary – This UIPL instructs states to retain data regarding the temporary pandemic-related UC programs, created under the CARES Act, as amended, until further notice and direction from the Department. This guidance reflects a change in policy and replaces prior guidance on the specific topic of data retention concerning the CARES Act UC programs. This UIPL also provides instruction on which funding sources states may use to support data retention and that ETA plans on providing additional funding opportunities to cover costs associated with expanded data retention requirements in the future.
 - b. Background – From April 2020 through January 2021, the Department published various guidance documents instructing states that they were required to retain UI data (data) related to temporary pandemic-related UC programs authorized under the CARES Act, as

RESCISSIONS UIPL 15-20, Attachment I, Section C; subsection 7b; UIPL 16-20, Attachment I, Section C; subsection 18b; UIPL 17-20, Attachment I, Section C; subsection 8b	EXPIRATION DATE Continuing
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amended. The previous guidance documents¹ state, in general, that records must be retained and available:

for three years after final action (including appeals or court action) on the payments, or for less than the three-year period if copied by micro photocopy or by an electronic imaging method. At the end of the three-year period, the records shall be transferred to state accountability under the conditions for the disposal of records that apply to [Unemployment Compensation for Federal Employees] UCFE and [Unemployment Compensation for Ex-Servicemembers] UCX records, as explained in Chapter X of ET Handbook No. 391 (1994 Edition) (OMB No. 1205-0179) and Chapter I of ET Handbook No. 384 (1994 Edition) (OMB No. 1205-0176).

- 4. Data Retention.** Until further notice and future direction from the Department, this UIPL is superseding previous guidance and hereby requiring states to retain data for pandemic-related UI programs indefinitely. Therefore, all data for pandemic-related UC programs must be retained until further notice and direction.

States agreed to abide by Department guidance as a condition of receiving funding when signing grant agreement(s) with the Secretary of Labor to administer the CARES Act pandemic programs. States are also required to follow the Uniform Guidance at 2 CFR part 200 in administering the CARES Act pandemic programs. The Uniform Guidance is incorporated into the pandemic UI grant agreements by reference in the Grant Terms and Conditions in part 1, Order of Precedence. Under the Uniform Guidance, the standard data retention requirement is to maintain financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award for a period of three years from the date of submission of the final expenditure report. However, Federal agencies can require states to retain data for longer periods of time. See 2 CFR 200.333(b) (2021) for funds granted before October 1, 2024, and 2 CFR 200.334(b) (October 2024) for

¹ For **FPUC**, see page I-4 of Attachment I to Unemployment Insurance Program Letter (UIPL) No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, issued April 4, 2020, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-15-20>.

For **MEUC**, see Section C of Attachment I of UIPL No. 15-20 (*Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*), and UIPL No. 15-20 Change 3, *Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions*, issued January 5, 2021, which applies the data and record retention instructions for FPUC to MEUC, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-15-20-change-3>.

For **PEUC**, see page I-6 of Attachment I to UIPL No. 17-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020–Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions*, issued April 10, 2020, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-17-20>.

For **PUA**, see page I-28 of Attachment I to UIPL No. 16-20, Change 4, *Continued Assistance to Unemployed Workers Act of 2020 –Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued January 8, 2021, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-16-20-change-4>.

grant funds awarded on and after October 1, 2024. This UIPL notifies states that the Department is requiring states to retain this data indefinitely until further notice from the Department. The Department will send a notice, in writing, to each state of this extension requirement.

a. **Applicable Programs.** These revised data retention requirements apply to the following temporary pandemic UC programs created by the CARES Act, as amended:

- Federal Pandemic Unemployment Compensation (FPUC) (Section 2104 of the CARES Act);
- Mixed Earners Unemployment Compensation (MEUC) (Section 261 of the Continued Assistance for Unemployed Workers Act of 2020, amending Section 2104 of the CARES Act);
- Pandemic Emergency Unemployment Compensation (PEUC) (Section 2107 of the CARES Act);
- Pandemic Unemployment Assistance (PUA) (Section 2102 of the CARES Act);
- Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally Recognized Indian Tribes (Section 2103 of the CARES Act);
- Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (Section 2105 of the CARES Act); and
- Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments (Section 2108 of the CARES Act).

b. **Additional Context.** The Department acknowledges that under prior guidance states and/or third-party vendors supporting states' operations of the temporary pandemic-related UC programs may have already begun to purge records and data. This activity may conflict with efforts to investigate and prosecute fraud in these programs. If a state has begun to purge records or data, it must immediately discontinue further deletions of pandemic-related UC program data and, where the cost and resources are reasonable, states must attempt to recover previously purged or deleted information. Please contact your ETA Regional Office to discuss further if your state is in this situation.

The Department supports efforts for federal prosecution of UI-related fraud. In Training and Employment Notice (TEN No.) 12-23, the Department reminded states about the statute of limitations for federal prosecution of UI fraud and encouraged states to submit timely referrals of pandemic-era UI fraud cases to the Department's Office of Inspector General (DOL-OIG). The TEN noted the statute of limitations for federal fraud prosecutions is five (5) years under 18 U.S.C. § 3282. Payments of benefits under the regular UI program and the temporary pandemic UI programs began as early as March 2020. Because of the five-year statute of limitations, this means that individuals who received payments in March 2020 cannot be prosecuted after March 2025, absent a change in the statute of limitations.

The DOL-OIG has urged the Department to “work with Congressional stakeholders to inform them of the urgency of the statute of limitations concerning pandemic-related UI fraud.”² In April 2024, the Department published a plan to transform the UI program, which notes the need for the extension of the statute of limitations for UI fraud as an administration priority.³

In addition to the Department’s communications, the U.S. Department of Justice (DOJ)-established COVID-19 Fraud Enforcement Task Force, in April 2024, released a report detailing its efforts to combat fraudsters and other criminals seeking to exploit the government’s relief efforts for personal gain.⁴ The taskforce encouraged legislation that extends the statute of limitations for all COVID-19 fraud-related offenses, including but not limited to those associated with the UI program. There currently is legislation pending in both houses of Congress to extend the statute of limitations. If enacted, these proposals would extend the time period for prosecutors to investigate and prosecute complex criminal syndicates that seek to exploit the government’s relief efforts. The Administration has indicated its support for an extension of the statute of limitations in anti-fraud proposals in 2023⁵ and 2024.⁶ In light of these ongoing activities and the possibility of an extension of the statute of limitations, the Department has determined that states must retain the data related to the temporary pandemic-related UC programs described above until further notice and direction from the Department. This will ensure data necessary for prosecution of these crimes is available if needed.

- c. **Administrative Funding.** States can utilize funding provided through ongoing state workload-based administrative funding and the recently issued supplemental budget request as announced under UIPL No. 02-25 and UIPL No. 17-24, respectively, to support data retention activities. States may need to amend the UIPL 17-24 grant agreements already in place to add system maintenance as an included activity for the allowable use of funds in order to support the retention of CARES Act data. Please contact your ETA Regional Office to discuss further if your state is in this situation.

² DOL-OIG Report No. 19-23-012-03-315, *Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program*, issued September 25, 2023, <https://www.oig.dol.gov/public/reports/oa/2023/19-23-012-03-315.pdf>.

³ UI Transformation Plan. *Building Resilience: A plan for transforming unemployment insurance*, published April 2024, https://oui.doleta.gov/unemploy/transformation_plan.asp.

⁴ U.S. Department of Justice: *COVID-19 Fraud Enforcement Task Force 2024 Report*, issued April 9 2024, [COVID-19 Fraud Enforcement Task Force 2024 Report April 2024 - Council of the Inspectors General on Integrity and Efficiency](https://www.justice.gov/oea/COVID-19-Fraud-Enforcement-Task-Force-2024-Report-April-2024-Council-of-the-Inspectors-General-on-Integrity-and-Efficiency).

⁵ The White House, FACT SHEET: *President Biden’s Sweeping Pandemic Anti-Fraud Proposal: Going After Systemic Fraud, Taking on Identity Theft, Helping Victims*, issued March 2, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/02/fact-sheet-president-bidens-sweeping-pandemic-anti-fraud-proposal-going-after-systemic-fraud-taking-on-identity-theft-helping-victims/>.

⁶ The White House, FACT SHEET: *President Biden’s Sweeping Proposals to Crack Down on Pandemic Fraud and Help Victims Recover Introduced in Congress*, issued April 9, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/09/fact-sheet-president-bidens-sweeping-proposals-to-crack-down-on-pandemic-fraud-and-help-victims-recover-introduced-in-congress/>.

The Department recognizes that workload-based funding may be insufficient to cover all ongoing costs associated with data retention efforts, especially as workload activities continue to decline following the expiration of these programs. The Department also recognizes that states have different costs associated with data retention, particularly in states that implemented separate standalone systems to support certain temporary pandemic-related UC programs.

The CARES Act, as amended, provides that states will be funded for the full cost of the administration of the temporary pandemic-related UC programs. As a result of the likely ongoing costs resulting from this change in guidance revising the data retention requirements, ETA plans to address additional funding needs and opportunities at a later date.

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

6. **References.**

- The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. 116-136, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act;
- Consolidated Appropriations Act, 2021 (Pub. L. 116-260), including Division H, Title II, Subtitle A, Chapter 1 (“Continued Assistance to Unemployed Workers Act of 2020”);
- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Unemployment Insurance Program Letter (UIPL) No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, issued April 4, 2020. <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-15-20>;
- UIPL 15-20, Change 3, *Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions*, issued January 5, 2021. <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-15-20-change-3>;
- UIPL No. 16-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions*, issued April 5, 2020. <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-16-20>
- UIPL No. 16-20, Change 4, *Continued Assistance to Unemployed Workers Act of 2020 – Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued January 8, 2021. <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-16-20-change-4>;

- UIPL No. 17-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions*, issued April 10, 2020. <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-17-20>;
- UIPL No. 17-24, *Supplemental Budget Request (SBR) Opportunity for Additional Administrative Funding to Support States' Ongoing Administrative Activities Associated with Certain Coronavirus Aid, Relief, and Economic Security (CARES) Act Unemployment Compensation (UC) Programs*, issued August 26, 2024. <https://www.dol.gov/agencies/eta/advisories/uipl-17-24>;
- UIPL No. 02-25, *Instructions to States for Ongoing Workload-Based Administrative Funding for the Federal Benefit Programs Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as amended*, issued, November 6, 2024, <https://www.dol.gov/agencies/eta/advisories/uipl-02-25>;
- Training and Employment Notice (TEN) No. 12-23, *Reminder on Federal Statute of Limitations on Criminal Prosecutions of Unemployment Insurance (UI) Fraud*, issued December 1, 2023. <https://www.dol.gov/agencies/eta/advisories/ten-12-23>;
- U.S. Department of Labor, Employment and Training Administration UI Transformation Plan: *Building Resilience: A plan for transforming unemployment insurance*, issued April 2024. https://oui.doleta.gov/unemploy/transformation_plan.asp;
- U.S. Department of Labor Office of Inspector General (OIG), Alert Memorandum: *ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program*," issued September 25, 2023; <https://www.oversight.gov/sites/default/files/documents/reports/2023-10/19-23-012-03-315.pdf>
- U.S. Department of Justice: *COVID-19 Fraud Enforcement Task Force 2024 Report*, issued April 2024. <https://www.justice.gov/coronavirus/media/1347161/dl?inline>; and
- U.S. Department of Labor OIG Report. *COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments, Including Fraud*, issued September 27, 2023. <https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf>.

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