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**DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 13-94, Change 1**

**TO : ALL STATE EMPLOYMENT SECURITY AGENCIES**

**FROM : MARY ANN WYRSCH**  
**Director**  
**Unemployment Insurance Service**

**SUBJECT : Draft Language - Failure to Participate in Reemployment Services**

1. **Purpose.** To provide State Employment Security Agencies (SESAs) with revised draft language to implement section 4(b) of Public Law (P.L.) 103-152 and clarify certain elements of UIPL 13-94.
2. **References.** [UIPL 13-94](#); Section 4, of P.L. 103-152; Section 303(a)(10) of the Social Security Act (SSA).
3. **Background.** UIPL 13-94 provided information on the provisions of the Unemployment Compensation Amendments of 1993, P.L. 103-152, which affect the Federal-State unemployment compensation (UC) program. Attachment III to UIPL 13-94 provided draft language to implement new Section 303(a)(10), SSA, as added by Section 4(b) of P.L. 103-152, which requires that certain individuals be held ineligible for UC for failure, to participate in reemployment services. However, the craft language erroneously omitted language pertaining to exceptions to this requirement. This UIPL provides amended draft language and further clarification of UIPL 13-94.
4. **Revised Draft Language.** States needing to amend their laws to incorporate the new eligibility criteria established by P.L. 103-152 may wish to use the following draft language:
  - (a) Eligibility for benefits.--An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(\_) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the Commissioner, unless the Commissioner determines that:

(a) the individual has completed such services; or

(b) there is justifiable cause for the claimant's failure to participate in such services.

Section 303(a)(10), SSA, requires State laws to contain "a requirement that, as a condition of eligibility for regular compensation for any week, any claimant who has been referred to reemployment services pursuant to the profiling system . . . participate in such services or determines (A) such claimant has completed such services; or (B) there is justifiable cause for such claimant's failure to participate in such services." (Emphasis added.) Therefore, the State law is required to provide not only that eligibility for regular UC is conditioned on a claimant's participation in reemployment services, but also that such condition is treated as met if the claimant has completed such services, or there is justifiable cause for the claimant's nonparticipation.

It should be further noted that the above language is intended to be added to the section of State law containing eligibility requirements (e.g., Employment service registration and able and available requirements). Justifiable cause does not supersede, State able and available requirements, but rather is an additional eligibility requirement related to participation in reemployment services. Specifically, if an individual is determined to have justifiable cause for failure to participate in reemployment services, the individual still must meet a State's able and available requirements to be eligible for UC.

5. **Clarification.** At one point, UIPL 13-94 uses the term "disqualification" when referring to the eligibility requirement that individuals participate in reemployment services. It would be more accurate to refer to those individuals who fail to participate in reemployment services as being "ineligible" for UC.
6. **Action Required.** SESAs are requested to take the action necessary to assure consistency with Federal requirements. The Department of Labor assumes States will need to amend their laws in accordance with the revised draft language. If a State does not need such a law change, it will be necessary to so notify the Department.
7. **Inquiries.** Inquiries should be directed to your Regional office.