



January 28, 2019

Dear State Workforce Administrators and Unemployment Insurance Directors:

This serves as an update to the letter I sent you via email on January 18, 2019, regarding eligibility under the Unemployment Compensation for Federal Employees (UCFE) program during the partial lapse in Federal appropriations that began on December 22, 2018. Please note that Unemployment Insurance Program Letter 31-13, Change 2, remains in effect and is available at https://oui.doleta.gov/unemploy/2019_shutdown/2019_partial_shutdown.asp.

As you are aware, on January 16, 2019, the *Government Employee Fair Treatment Act of 2019*, was signed by the President, which guarantees payment to all Federal employees, including those on furlough, upon the end of the lapse in appropriations. Section 2 of the Act requires that Federal employees be compensated “at their standard rate of compensation, for the period of such lapse in appropriations, as soon as practicable after such lapse in appropriations ends.”

On January 25, 2019, the President signed into law House Joint Resolution 28 (H.J. Res. 28), the *Further Additional Continuing Appropriations Act, 2019*, which contains a short-term continuing resolution that provides Fiscal Year 2019 appropriations through February 15, 2019, for continuing projects and activities carried out by the Federal agencies affected by the partial lapse in Federal appropriations.

Based on these legislative actions, it is the Department’s position that furloughed Federal employees are ineligible for UCFE under 20 CFR 609.3(d) for that period because they are no longer considered to have been totally, part-totally, or partially unemployed. Therefore, as soon as it is administratively feasible, States must take appropriate action, consistent with state law, to address recoupment of UCFE payments made to furloughed Federal employees. States must:

- Review UCFE payment records to determine if payments were made to furloughed Federal employees for weeks during which the partial lapse in Federal appropriations was in effect; and
- Initiate all overpayment actions permitted under the UCFE program for furloughed Federal workers covering the period for which those workers received retroactive pay.

Please be reminded that in considering waivers of UCFE overpayments caused by the compensation of furloughed Federal employees during the partial lapse in Federal appropriations, States must apply the same waiver treatment they would apply to other unemployment compensation under State law. See 5 U.S.C. § 8502(b) (“The agreement

shall provide that compensation will be paid by the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law"). In addition, States may take appropriate action in accordance with their State law to permit claimants to withdraw their claims upon request.

The Employment and Training Administration is available to answer any questions you may have regarding the administration of UCFE benefits as a result of the partial lapse in Federal appropriations. If you have any questions or need further assistance, please e-mail your questions to 2019_Furlough_Inquiries@dol.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Gay M. Gilbert", written in a cursive style.

Gay M. Gilbert
Administrator
Office of Unemployment Insurance