

From: Gilbert, Gay - ETA <Gilbert.Gay@dol.gov>
Sent: Thursday, December 31, 2020 9:43 AM
Subject: Operational Flexibilities

Hello, State Colleagues:

This a follow-up to my June 12, 2020 and October 7, 2020 communications informing states on the operational flexibilities available to support states' need to divert available staff in supporting the program's mission and operations.

We realize that all states remain engaged in implementing and operating the Unemployment Insurance (UI)-related programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020; implementing the recent changes in the Continued Assistance Act signed on Sunday; and processing the unprecedented volume of claims that continue to be filed for these and the regular UI programs.

We know that many of you continued to request additional operational flexibilities for Employment and Training Administration (ETA) quality programs such as the Benefit Accuracy Measurement (BAM) and Benefits Timeliness and Quality (BTQ).

Based on state requests, the new law changes, and the workload challenges you are experiencing, we are updating the operational flexibilities for the following functions as described below and providing reminders about functions that remain in place.

BAM

Denied Claims Accuracy (DCA) – Upon request, we will extend the suspension, for an additional three quarters i.e. through Batch 202052 (quarter ending December 31, 2020); through Batch 202113 (quarter ending March 31, 2021); through Batch 202126 (quarter ending June 30, 2021). Upon approval, if your state has already selected cases during this quarter ending December 31, 2020, the state may suspend investigations.

Paid Claims Accuracy (PCA) – We are not considering any additional suspension for the BAM PCA sampling and investigations. Any additional waiver or suspension of BAM PCA will impact the Department's ability to fulfil its statutory requirement to report a statistically representative and accurate improper payment rate at the national and state levels.

National PCA Peer Reviews for FY 2021 – We are cancelling the PCA peer reviews scheduled for FY 2021. We previously shared that the February, 2021, BAM PCA Peer Review was canceled. We are now cancelling the August BAM PCA Peer Review as well. Peer Reviews will be rescheduled to commence in February 2022 resetting the peer review cycle with PCA Reviews for the first half of the states. Your regional office will be in touch regarding the FY 2022 Peer Review schedule.

Methods and Procedures (M&P) Review for FY 2021 – We are not be suspending any BAM M&P reviews scheduled by your regional office in FY 2021 for your state.

Nonmonetary Determinations BTQ

Performance is evaluated using 4 quarters of data from April 1, 2020, through March 31, 2021 (FY 2021 SQSP performance period). ETA needs at least 2 quarters of completed state sample data to make a statistically-representative quality assessment.

Nonmonetary Determinations Quality Reviews – We are providing the option for states to suspend the sampling and quality reviews for up to two quarters during the FY 2021 SQSP performance period. For example, if your state has sampled and reviewed cases for quarter ending June 30, 2020, and September 30, 2020, we will permit you to suspend Nonmonetary Determination quality reviews for quarters ending December 31, 2020 and March 31, 2021.

National Nonmonetary Determinations BTQ scheduled for FY 2021 – The Non-Mon/BTQ Peer Reviews will be rescheduled to commence in FY 2022, resetting the peer review cycle for the National Nonmonetary Determinations BTQ reviews.

Lower Authority Appeals (LAA) BTQ

Lower Authority Appeals (LAA) Quality Reviews – Upon request, we will permit states to suspend LAA sampling and quality reviews for the entire FY 2021 SQSP period. Upon approval, if your state has already sampled cases for quarter ending June 30, 2020, and September 30, 2020, we will permit to suspend any reviews for quarters ending June 30, 2020 and September 30, 2020, and also allow to suspend sampling and quality reviews for quarters ending December 31, 2020 and March 31, 2021.

The National Appeals Review (NAR) for FY 2021 – Appeals Peer Reviews will be rescheduled to commence in FY 2023, resetting the peer review cycle for NAR.

Finally, ETA recognizes the impact this situation is placing on state UI operations and will provide approval for these requests on a case-by-case basis. We ask that you submit formal requests through email or letter and include the following types of information:

- Rationale for your request including, but not limited to, information on the level of claims work load and staffing considerations; and
- Staffing changes you will make if the request is granted.

Please send state requests to alter normal operations for these programs/functions to the mailbox COVID-19@dol.gov with a copy to your Regional Office UI Director.

We will provide responses as quickly as feasible.

IMPORTANT REMINDERS ABOUT FEDERAL REPORTING

States should continue to ensure the timely submittal of the weekly claims reports (ETA538 and ETA539). The data from these reports remains vital for policy makers and financial markets in light of these rapidly changing economic conditions. As a reminder, this data must remain

embargoed until the national claims report is released the following Thursday at 8:30 AM EDT/EST. States should not provide numeric values to the public until the release of the embargoed claims data by ETA.

All states should now be providing weekly data on Pandemic Unemployment Assistance (PUA), including PUA initial *and* continuing claims, and Pandemic Emergency Unemployment Compensation (PEUC) continuing claims in the comments for these reports as specified in UIPL 16-20 and UIPL 17-20, respectively.

States are reminded that if a regular program initial claim is taken when verifying that a claimant is not eligible for regular UI before proceeding with a PUA claim, the state must record and report that as only a PUA initial claim and the regular program initial claim must not be reported. Regular program initial claims taken to verify that a PUA claimant is not eligible for regular UI should be excluded from the regular State UI initial claims reported on the ETA538, ETA539, and ETA5159 reports.

Similarly, states are reminded that as they work through backlogs, backdated continued claims processed should be reported in the ETA 538 and ETA 539 reports reflecting the weeks of unemployment for which the backdated claims were claimed. States should revise previous ETA539 reports to include the backdated claims and avoid reporting multiple weeks of backdated claims for single claimants in the same week.

We hope the additional flexibilities provided here will be helpful as the UI system tackles this new round of legislation.

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