

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION EUC08 / FAC / EB
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-10, Change 3

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Emergency Unemployment Compensation Program Extension and Modification, Extended Benefits Temporary Provisions Extension, and Expiration of Federal Additional Compensation

1. Purpose. To advise states of the extension of and modifications to the Emergency Unemployment Compensation, 2008 (EUC08) program, the extension of the temporary provisions for the federal-state Extended Benefits (EB) program, and the expiration of the Federal Additional Compensation (FAC) program.
2. References. The Unemployment Compensation Extension Act of 2010 (Extension Act), Public Law (P.L.) No. 111-205, enacted July 22, 2010; the Continuing Extension Act of 2010, P.L. No. 111-157; the Supplemental Appropriations Act of 2008, P.L. No. 110-252; Sections 2002 and 2005 of Division B, Title II, the Assistance for Unemployed Workers and Struggling Families Act, P.L. No. 111-5; and Unemployment Insurance Program Letter (UIPL) Nos. 23-08 and 23-08, Changes 1, 2, 3, 4, 5, and 6; No. 07-09; Nos. 11-09 and 11-09, Change 1; Nos. 12-09 and 12-09, Change 1; and Nos. 04-10 and 04-10, Changes 1 and 2.
3. Summary of Changes to EUC08 and EB, and Expiration of FAC. P.L. No. 111-205 extends the phase-out periods and expiration dates of EUC08 and makes certain other program modifications, extends the temporary EB provisions, and discontinues the FAC program. The changes made by P.L. No. 111-205 are outlined below:
 - a. EUC08 Program.
 - The end of the period during which an individual may initially establish eligibility for the First Tier of EUC08 is extended to weeks of unemployment ending on or before November 30, 2010.
 - The end of the period during which an EUC08 account may be augmented is extended. Individuals must exhaust First, Second, or Third Tier EUC08 on or before November 30, 2010, to qualify for the next higher EUC08 tier.
 - The expiration date of the EUC08 program (i.e., the end of the “phase-out” period) is extended. Under the new expiration date, no EUC08 First, Second,

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Third, or Fourth-Tier payments may be made for any week of unemployment beginning after April 30, 2011.

- The EUC08 agreement will no longer apply and EUC08 will not be payable in a state if the U.S. Department of Labor (the Department) determines that the method governing the computation of regular compensation under the state law has been modified in a manner such that the average weekly benefit amount of regular unemployment compensation (UC) which will be payable (not including any FAC) during the period of the agreement will be less than the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the state law, in effect on June 2, 2010.

b. EB Program—100 Percent Federal Funding and EB Eligibility Period.

- The Federal government will reimburse states for 100 percent of the benefit costs of sharable EB and sharable regular compensation for weeks of unemployment beginning before December 1, 2010.
- The phase-out period for states to receive 100 percent reimbursement for individuals who have established EB eligibility is extended. If an individual received EB with respect to one or more weeks of unemployment beginning after February 17, 2009, and before December 1, 2010, the Federal government will continue to pay 100 percent of the eligible (sharable) EB benefit costs for weeks of unemployment ending before May 1, 2011.
- The provision permitting certain individuals to qualify for EB following exhaustion of EUC08 (without an overlap between their benefit year and the EB period) is extended. States may continue to permit these individuals to qualify for EB after they have exhausted EUC08 during an EB period that began on or before the date the individuals exhausted EUC08, even if the benefit year of those individuals ended. (See UIPL No. 12-09, Q&A 6.) This option remains available to states for weeks of unemployment beginning after February 17, 2009, and before December 1, 2010.

c. EB Program – Sharing for First Week.

- The suspension of the prohibition on Federal sharing for the first week of EB if state law permits individuals to be compensated for the first week of regular compensation eligibility at any time or under any circumstances is extended through weeks of unemployment ending on or before April 30, 2011.

d. Expiration of the FAC Program.

- Regular Compensation Claims. The FAC program was not extended and has already begun phasing out. FAC is payable during the phase-out to individuals who, as of June 2, 2010, had not yet exhausted all rights to regular compensation (including self-employment allowances and short-time compensation) with respect to a benefit year that began before that date.
- Federally Funded Compensation Claims. For Federally-funded claims (EUC08, Trade Readjustment Allowances (TRA), Extended Benefits (EB), Unemployment Compensation for Federal Employees, Unemployment Compensation for Ex-servicemembers, and Disaster Unemployment Assistance programs), individuals

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are potentially eligible for FAC during the phase out if they had remaining entitlement on such claims on or before June 2, 2010.

- New EUC08, EB, or TRA Claims. Individuals qualifying for new EUC08, EB, or TRA claims on the basis of regular compensation on which FAC was paid on or before June 2, 2010 are potentially eligible for FAC during the phase out.
- Statutory FAC End Date. No FAC is payable for weeks of unemployment beginning after December 7, 2010. (This means the last week-ending date FAC is payable, in those states with a Saturday week-ending date, is December 11, 2010.)

4. Modification of EUC08 Requirements Regarding Subsequent Regular Compensation Entitlement. P.L. No. 111-205 modifies the EUC08 requirement that individuals must exhaust all regular compensation entitlement before receipt of EUC08. It provides for the continued payment of EUC08 where an individual qualifies for a subsequent benefit year if the regular weekly benefit amount payable on that subsequent benefit year is lower than the EUC08 weekly benefit amount, as specified below. (The Questions and Answers in Attachment 2 provide additional information on this change.) Individuals may be eligible to continue to receive EUC08 instead of regular compensation if the following criteria are met:
- a. The individual is entitled to EUC08 with respect to a benefit year;
 - b. The benefit year has expired after the date of the enactment of the Extension Act;
 - c. The individual has remaining entitlement to EUC08 benefits with respect to the benefit year; and
 - d. The individual would qualify for regular compensation in a subsequent (new) benefit year and the weekly benefit amount on the new benefit year would be at least either \$100 or 25 percent less than the weekly benefit amount payable on the individual's EUC08 claim.

The state(s) must determine whether these individuals will be paid EUC08 or regular compensation by selecting one of the following options (State EUC08 Options):

- a. Establish a new benefit year for the individual, but defer payment of regular compensation until the EUC08 claim has been exhausted;
- b. Defer the establishment of the new benefit year and "put on hold" the base period wages currently available for use in establishing the benefit year until the EUC08 claim has been exhausted;
- c. Establish the new benefit year, commence regular compensation payments, and augment the new weekly benefit amount of the regular compensation with remaining funds from the claimant's EUC08 account equal to the difference between the new regular compensation weekly benefit amount and the older EUC08 claim's weekly benefit amount; or
- d. Continue to pay the EUC08 claim if the individual elects not to file a claim for regular compensation under the new benefit year.

This amendment applies only to those individuals whose benefit years expire after the date of enactment of the Extension Act (July 22, 2010). The state must elect only one option and apply it to all eligible individuals. This election may not be changed other than if prompted by a new state law enactment, as explained in Attachment 2, Q&A E.1.

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5. Program Continuation. These amendments were enacted on July 22, 2010, and are, except for the new State EUC Options described in item number 4, effective “as if included in [the UC amendments made by] the enactment of the Continuing Extension Act of 2010 (P.L. No. 111-157).” The Department interprets this to mean that implementation of the amendments is retroactive and, therefore, there is no gap between the expiration of the provisions as described in UIPL No. 04-10, Change 2, and the extension of such provisions by the Extension Act as described in this UIPL. Thus, benefits are payable retroactively to otherwise eligible individuals and the Department will reimburse states for the administrative costs of processing these claims.

Changes in the EUC and EB status for individual states are published weekly on the Department’s Web site at: http://oui.doleta.gov/unemploy/claims_arch.asp, and are included in a weekly email transmitting the trigger notices to states.

6. Interpretation. The information in this document is issued to the states and cooperating state agencies as guidance provided by the Department in its role as the principal in the EUC08 program. As agents of the Federal government, the states and cooperating state agencies may not deviate from this guidance without the prior approval of the Department. To the extent that the prior guidance (as outlined in #2, *References* above) is inconsistent with this UIPL, this UIPL supersedes that guidance.

Action Requested. State Administrators are requested to: 1) provide this guidance to appropriate staff, and 2) advise the appropriate Regional Office of its selected State EUC Option.

7. Inquiries. Questions should be directed to the appropriate Regional Office.

8. Attachments.

Attachment 1—Key Dates for Temporary Federal UC Provisions of the Extension Act of 2010.

Attachment 2—Questions and Answers.

Attachment 3—Unemployment Compensation Extension Act of 2010.