



OCT 05 2009

Mr. Patrick Henning  
Director  
Employment Development Department  
P.O. Box 826880, MIC 83  
Sacramento, CA 94280

Dear Mr. Henning:

In light of the fact that the unemployment insurance program (UI) has not been exempted from the state-wide furlough of employees imposed by the Governor, we are writing to advise you that UI Program Letter (UIPL) number 09-98 requires you to demonstrate that no decline in the performance of the UI program will occur as the result of this state-wide action.

Section 303 (a) (1) of the Social Security Act (SSA) requires, as a condition of a state receiving grants for the administration of its UI law, that the state must employ "such methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due." This requirement is intended to ensure proper and prompt delivery of UI services to claimants and employers. Any state action that does not take into account the UI service delivery needs of workers and employers in not a "method of administration" consistent with Section 303 (a)(1), SSA. Federal grants to the State could be jeopardized by failure to meet this "methods of administration" requirement of Section 303(a)(1), SSA.

For purposes of determining if a state meets this "methods of administration" requirement, UIPL 09-98 requires the state to show that the UI program's needs have been taken into account when the UI program is subjected to a state-wide personnel action. (A copy of the UIPL is enclosed.) I hereby formally request the showing required by the UIPL.

We note that California is already experiencing difficulty in several critical performance areas including first pay timeliness, non-monetary determination timeliness, appeals timeliness and appeals case aging. Despite Corrective Action Plans for timeliness of first pays, non-monetary determination and appeals, performance has continued to decline over the past year. Your response must specifically address these issues and should cover the California Unemployment Insurance Appeals Board.

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Please respond to this letter within 15 days of the date of the letter with a description of the action taken to ensure that the state-wide furlough does not adversely affect – by preventing achievement of CAP targets and/or causing a further decline of performance of the UI program including appeals processing.

Sincerely,

A handwritten signature in black ink, appearing to read "Trigg for". The signature is fluid and cursive, with the first name "Trigg" being the most prominent part.

Richard C. Trigg  
Regional Administrator

Enclosure UIPL 9-98

cc: Robert Johnston, NOETA via e-mail to [Johnston.robert@dol.gov](mailto:Johnston.robert@dol.gov)  
Douglas Hoffner, Acting Secretary, California Labor & Workforce  
Development Agency

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUL
	DATE January 12, 1998

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 09-98  
TO : ALL STATE EMPLOYMENT SECURITY AGENCIES  
FROM : GRACE A. KILBANE /s/  
Director  
Unemployment Insurance Service  
SUBJECT : Application of State-Wide Personnel Actions,  
including Hiring Freezes, to the Unemployment  
Insurance (UI) Program

1. Purpose. To advise States of the Department's position concerning the application of State-wide personnel actions such as hiring freezes, shutdowns and furloughs to the UI program.

2. References. Section 303(a)(1) of the Social Security Act (SSA).

3. Background. Due to State budget constraints, some States have, in the past, imposed hiring freezes, furloughs and other actions on a State-wide basis. These actions are usually taken during economic downturns when State revenues decline while the demand for UI services increases.

State UI agencies have objected to being subjected to these State fiscal actions on the basis that, because Federal UI grants may only be used for UI purposes, there are no savings to the State budget. The Department has supported the UI agencies in articulating this argument. The Department has noted that these actions will likely have a detrimental effect on unemployed workers and businesses and result in decreased performance against Federal standards. Finally, the Department has noted that, since the amount of

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Federal funds provided to a State takes into account the State's workload, Federal funding for UI increases during downturns. In spite of these objections, the UI program has been subjected to these fiscal restrictions.

As a result, the Department has re-examined this matter to determine whether a more proactive stance may be taken to assure the continued delivery of UI services during downturns. This UIPL is issued to advise States of the Department's determination and its basis in Federal law.

4. Department's Position. Section 303(a)(1), SSA, requires, as a condition of a State receiving grants for the administration of its UI law, that State law provide for--

Such methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due;

One of the basic purposes of this "methods of administration" requirement is to assure the proper and prompt delivery of UI services to claimants and employers. Therefore, any action that does not take into account the service delivery needs of the UI program, is not a "method of administration" consistent with Section 303(a)(1), SSA. This position applies to all State-wide personnel actions, including hiring freezes, shutdowns, furloughs, across-the-board staff reductions, and any process that serves to delay the hiring of UI staff when additional staff is needed.

When a State subjects the UI program to State-wide personnel actions, the State will be required to demonstrate to the Department that it has adequately addressed the UI program's needs. These needs include all activities funded by Federal dollars - payments, determinations, appeals, integrity and tax functions, etc. The State will be required to address how its workload will be handled without a decline in performance. If a State fails to show that its actions adequately take into account the needs of its UI program, then the action is not an acceptable "method of administration" under the SSA and the State's entire UI grant could be at risk. Similarly, if State performance declines despite the State's "showing" that program needs have been considered, then the action may not be an acceptable "method of administration."

The Department recognizes that there may be situations where hiring freezes, staff reductions or other personnel actions taken by the UI agency are necessary. For example, when workload decreases, the need for staff decreases and the UI agency will need to take appropriate action to assure that only amounts necessary for the proper and efficient administration of the UI program are expended from grant funds. Since these actions take into account the needs of the UI program, they raise no issue under Federal law.

5. Action Required. State agency administrators are requested to provide this UIPL to appropriate staff.
6. Inquiries. Direct questions to your Regional Office.