

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL OUI/DFAS
	DATE March 29, 2016

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 12-16

TO: STATE WORKFORCE AGENCIES

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Implementation of Sequestration under the Budget Control Act of 2011 for Mandatory Unemployment Insurance Programs for Fiscal Year 2016

1. **Purpose.** To provide information to State Workforce Agencies (SWAs) about application of sequestration in Fiscal Year (FY) 2016, how the Department of Labor (Department) will apply sequestration to mandatory Unemployment Insurance (UI) programs and on delayed benefit payments from prior fiscal years, and the resulting administrative costs.

2. **References.**

- Federal-State Extended Unemployment Compensation Act of 1970 (Federal-State EUCA) (Pub. L. 91-373);
- Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) (Pub. L. 99-177), as amended by the Budget Control Act;
- Budget Control Act of 2011(BCA) (Pub. L. 112-25);
- Consolidated Appropriations Act, 2012 (Pub. L. 112-74);
- Continuing Appropriations Resolution, 2013 (Pub. L. 112-175);
- Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96);
- American Taxpayer Relief Act of 2012 (ATRA) (Pub. L. 112-240);
- Unemployment Insurance Program Letter (UIPL) No. 23-08, dated July 7, 2008, *Supplemental Appropriation Act, 2008, Title IV – Emergency Unemployment Compensation*;
- UIPL No. 04-10, Change 3, dated July 23, 2010, *Emergency Unemployment Compensation Program Extension and Modification, Extended Benefits Temporary Provisions Extension, and Expiration of Federal Additional Compensation*, and Change 9, dated March 5, 2012, *Extension and Modification of Emergency Unemployment Compensation, 2008 (EUC08) and Extension of Temporary Extended Benefits (EB) Provisions*;
- UIPL No. 22-12, dated June 18, 2012, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*;
- UIPL No. 13-13, dated March 8, 2013, *Implementation of Sequestration under the Budget Control Act of 2011 for the Unemployment Insurance Programs for Fiscal Year 2013*,

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and Change 1, dated April 9, 2013, *Implementation of Sequestration under the Budget Control Act of 2011 for the Unemployment Insurance Programs for Fiscal Year 2013 – Questions and Answers: Emergency Unemployment Compensation*;

- UIPL No. 15-13, dated March 29, 2013, *Unemployment Insurance (UI) Supplemental Funding Opportunity to Fund Costs Attributable to the Implementation of the Sequestration Impacts on the Emergency Unemployment Compensation (EUC) Program*;
- UIPL No. 27-13, dated September 9, 2013, *Unemployment Insurance (UI) Supplemental Funding Opportunity to Fund Costs Attributable to the Implementation of the Sequestration Impacts on the Emergency Unemployment Compensation (EUC) Program in Fiscal Year (FY) 2014*;
- UIPL No. 30-13, dated September 27, 2013, *Implementation of Sequestration under the Budget Control Act of 2011 for Mandatory Unemployment Insurance Programs for Fiscal Year 2014*;
- UIPL No. 2-15, dated October 15, 2014, *Implementation of Sequestration under the Budget Control Act of 2011 for Mandatory Unemployment Insurance Programs for Fiscal Year 2015*, and Change 1, dated January 22, 2015;
- Office of Management and Budget (OMB) Sequestration Preview Report to the President and Congress for Fiscal Year 2014 and OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2014 (April 10, 2013) (Corrected Version—May 20, 2013);
- OMB Sequestration Update Report to the President and Congress for Fiscal Year 2014, dated August 20, 2013;
- OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2015, dated March 10, 2014; and
- OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2016, dated February 2, 2015.

3. **Background.** The BCA amended the BBEDCA to require reductions in budgetary authority, known as sequestration, beginning on January 2, 2013, unless Congress passed, and the President signed, a bill that reduced the deficit by at least \$1.2 trillion over 10 years. As required by the sequestration order and set out in the February 2, 2015, OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2016, a 6.8 percent reduction in non-exempt mandatory programs went into effect on October 1, 2015, for FY 2016. There are no sequestration reductions applicable to discretionary programs, projects, and activities (PPAs) for FY 2016.

4. **Impact of Sequestration in FY 2016 on Benefit Payments Delayed from Prior Fiscal Years and Resulting Administrative Costs.** Payments in FY 2016 of benefits and related administrative costs relating to the programs listed below in this section that are delayed from prior fiscal years, for example because of appeals, are subject to the FY 2016 6.8 percent sequestration reduction since FY 2016 funds have been apportioned for these purposes:

- 1) Emergency Unemployment Compensation (EUC) benefits and administrative funding; and
- 2) The Federal share of Extended Benefits (EB).

5. **Impact of Sequestration on the Mandatory UI Programs in FY 2016.** Below is a list of PPAs related to the mandatory UI programs and the applicability of sequestration to each PPA.

The following PPAs are exempted from sequestration:

- 1) Unemployment compensation paid by a state from its account in the Unemployment Trust Fund;
- 2) Title XII, Social Security Act (SSA), advances to states; and
- 3) Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX).

Note: The Federal Emergency Management Agency advises that there is no impact on Disaster Unemployment Assistance (DUA) administrative funding or benefits.

Sequestration applies to the following mandatory PPAs:

- 1) The Federal share of Extended Benefits (EB); and
- 2) Trade Adjustment Assistance funds appropriated under the Federal Unemployment Benefits and Allowances Account (FUBA).

6. **Impact of Sequestration on EB.** The applicable percentage reduction to the Federal share of EB benefit costs is 6.8 percent starting with weeks of unemployment ending on October 3, 2015, and ending with weeks of unemployment ending on September 24, 2016. Unless a state were to amend its law to reduce EB benefits, as explained below, reduction in Federal sharing of EB due to sequestration means the state becomes responsible for paying the remaining EB share from its own funds, i.e., the amount represented by the 6.8 percent reduction.

Authority for States to Reduce EB Weekly Benefit Amounts due to Sequestration

Under the Federal-State EUCA, the EB weekly benefit amount (WBA) is “the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for such week for total unemployment.” (Section 202(b)(2), Federal-State EUCA.) However, 2 U.S.C. 906(i)(2) (BBEDCA section 256(h)(2)) permits states to reduce EB WBAs if the Federal share of EB benefit costs is reduced under a sequestration order. That section provides:

“(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 904 of this title by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(B) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of Title 26.”

State law must authorize the reduction in EB WBAs as specified in the BBEDCA. Note that actual reductions in Federal spending could not be achieved if WBAs are reduced without also reducing individuals’ remaining entitlement or maximum benefit amount (MBA) for EB. For this reason, state law must also provide for reductions in EB remaining entitlement and MBA if it provides for reducing EB WBAs.

Any state amending its law to provide for these EB reductions must provide notice to claimants and an opportunity to appeal the calculation of the amounts but not to appeal the reduction itself.

- 7. Impact of Sequestration on EUC.** EUC funding for both benefits and administration is subject to a sequestration reduction of 6.8 percent in FY 2016. Although any residual EUC benefit payments made in FY 2016 would relate to benefit weeks that occurred in prior fiscal years, the FY 2016 sequestration reduction of 6.8 percent should be applied to any EUC benefit payments made in FY 2016.

EUC administration is funded quarterly in combination with above-base workload for regular UI. The sequestration reduction of 6.8 percent will be applied to above-base funds provided to the state for the administration of EUC. Although the EUC program expired on January 1, 2014, the Department will continue to provide administrative funds to cover residual EUC administrative workloads.

- 8. Impact of Sequestration on TAA.** The applicable percentage of reduction to Trade Adjustment Assistance is 6.8 percent in FY 2016. As in previous fiscal years, using the flexibility under BBEDCA, the Department will apply the full TAA Program sequestration to the funding for Training and Other Activities, which are the funds available for training, employment and case management services, out-of-area job search, relocation allowances, and related administrative expenses. The reductions will not be applied to Trade Readjustment Allowances (TRA), Reemployment Trade Adjustment Assistance (RTAA) benefits or Alternative Trade Adjustment Assistance (ATAA) available under the TAA Program.
- 9. Action Requested.** State Administrators are advised to provide this guidance to appropriate staff.
- 10. Inquiries.** Questions should be directed to the appropriate Regional Office.