

**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
PROGRAM GUIDANCE LETTER**

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<p>SUBJECT New Requirements for Emergency Unemployment Compensation Benefit Recipients</p>		
<p>PROGRAM GUIDANCE LETTER:</p>	<p>12-05-EUC</p>	
<p>EFFECTIVE DATE:</p>	<p>May 8, 2012</p>	
<p>DISTRIBUTION:</p>	<p>Unemployment Insurance Program Workforce Centers Workforce Development Programs</p>	

REFERENCES

Middle Class Tax Relief and Job Creation Act of 2012; Unemployment Insurance Program Letter 04-10, Change 9; and Training and Employment Guidance Letter 20-11.

PURPOSE

To provide guidelines to Unemployment Insurance (UI) and Workforce staff in administering the new eligibility requirements for claimants receiving Emergency Unemployment Compensation (EUC).

BACKGROUND

Section 2161 of the Middle Class Tax Relief and Job Creation Act of 2012 added requirements that recipients of any tier of EUC must be engaged in an active work search as required by the state. Additionally, the state must provide reemployment services and a reemployment and eligibility assessment (RES/REA) to those individuals who begin receiving Tier 1 or Tier 2 EUC benefits.

States are required to notify EUC claimants of the new requirements associated with receiving EUC benefits and of the consequences of failing to comply with the requirements. A claimant’s failure to comply with the requirements will result in a disallowance of benefits unless good cause is shown for the failure.

All individuals currently receiving any tier of EUC must meet the requirement for actively seeking work. The U.S. Department of Labor (USDOL) defines “actively seeking work” to mean that an individual must:

- Register for employment services as prescribed by the state agency.
- Engage in an active search for suitable work for an appropriate number of employer contacts as determined/prescribed by the state.
- Maintain a record of his/her work search, including employers contacted, method of contact, and date of contact.
- When requested, provide such work-search record to the state agency.

Required RES/REA activities are described below in more detail:

- Provision of labor market and career information, including materials or information intended to assist individuals in making occupation or career decisions. This information may be provided in-person or via online resources. To comply with this requirement, states may use their own services and/or elect to direct individuals to use available online resources to complete the assessment of the skills of the individual. This assessment must focus on

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occupational assessments of skill level, aptitudes, and individual abilities. To comply with this requirement, states may conduct these assessments in-person or via online tools.

- Orientation, in groups or individually, to the services available through the One-Stop Career Centers and the partner organizations. States must ensure that individuals are able to access the full array of services available through the public workforce system.
- A review of the individual's continued eligibility for EUC with respect to the "actively seeking work" requirements as defined under the Act and under state law. This aspect of the assessment must include a review of the individual's work-search log(s), conducted in-person, to ensure it contains the required information and otherwise complies with the state's standards. It must also include a review of whether the individual is registered for employment services as prescribed by the state agency.

The claimant must participate in the RES/REA activities within six weeks of beginning Tier 1 or Tier 2 of EUC to avoid disallowance. Good cause must be considered for anything beyond that.

POLICY/PROCEDURE

More detailed procedural guidance will be provided in the near future by the appropriate staff within each program.

Notification

The UI Program identifies and notifies all claimants receiving EUC, or moving to EUC, of the new work-search and RES/REA requirements. Those claimants required to participate in the RES/REA are sent Form EUC-8, Notice of New Requirements to Receive Emergency Unemployment Compensation. The form describes the requirements in detail and explains how the claimant meets the requirements.

The UI Program notifies Workforce Development Programs (WDP) through Connecting Colorado of those claimants identified to participate in the RES/REA. Each individual workforce center (WFC) will then notify claimants on their respective EUC claimant list of the one-on-one appointment to complete the eligibility assessment and any other missing components.

Completing RES/REA Activities

Each claimant beginning Tier 1 or Tier 2 of EUC on or after March 25, 2012, must participate in the RES/REA. The majority of these activities are performed online.

Each claimant must be active in Connecting Colorado and view an online orientation webinar, which can be accessed via www.connectingcolorado.com or on the CDLE Web site at www.coloradoui.gov/euc. Once the webinar has been viewed online, Connecting Colorado will automatically enter a service in the claimant's record. If the orientation is viewed at the WFC, staff must enter the appropriate service in Connecting Colorado.

The orientation webinar is designed to inform each claimant about the new work-search requirements, in detail, and to discuss the services and resources available at local WFCs. The orientation instructs the claimant to complete the steps prior to an in-person, one-on-one appointment.

The orientation also instructs each claimant to complete a skills assessment. The claimant is instructed to make a copy of the assessment results and bring it to the one-on-one appointment. This assessment is also completed online via one of three Web site resources provided in the orientation webinar; however, claimants are not limited to these three Web site resources.

Included with the orientation is a survey, called Individual Reemployment and Work-Search Plan, for the claimant to complete. The survey asks the claimant about his or her ability to work, availability for work, and several questions about his or her work search. It also instructs the claimant to bring a copy of the completed survey and a copy of his or her work-search log for at least the last six weeks to the one-on-one appointment.

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The final step is for each claimant to attend an in-person, one-on-one eligibility assessment. Each claimant will be scheduled by his or her local WFC; the claimant must attend the scheduled meeting unless he or she is granted a waiver for attending in-person. During the assessment, the claimant's eligibility will be reviewed, including his or her work-search logs.

NOTE: While workforce staff will review each claimant's documentation regarding eligibility, all issues will be referred to UI for adjudication.

Rescheduling Appointments/Missed Appointments

Each local WFC determines a schedule that works for their local office, and the claimant must contact his or her local office to reschedule an appointment. Many of the WFCs are providing multiple date choices for a claimant to attend to limit the number of calls to reschedule appointments. The Notice of New Requirements to Receive Emergency Unemployment Compensation encourages claimants to attend the appointment when it is scheduled. However, there may be circumstances when a claimant needs to reschedule his or her appointment. If the claimant provides a reason for rescheduling the meeting that is a potential eligibility issue, refer the information to UI (see Referral of Eligibility Issues below). A potential eligibility issue is something that conflicts with the claimant's ability to work, availability for work, or actively seeking work. Regardless of whether the reason for rescheduling is referred to UI, WFC staff should proceed with rescheduling a claimant's appointment to ensure the claimant meets the requirements.

The law states claimants cannot be paid EUC unless or until all of these requirements are met and good cause must also be considered when making a determination on the claimant's failure to attend. If a claimant does not meet all the requirements within six weeks of moving to Tier 1 or Tier 2 of EUC, UI will take action to disallow the claim. If the claimant meets all the requirements at some time after that, UI will take additional action to allow payment as of the week the claimant met all requirements.

NOTE: If a claimant notifies the WFC that he or she has returned to work and does not complete all the services/attend the one-on-one appointment, the WFC staff can record "obtained employment" on a claimant's service but should add only the codes for services that were completed. This will allow UI to take the appropriate action to disallow the claim and, if necessary, get the claimant referred to the WFC for RES/REA in the future, if the claim is reopened.

Waiver for Attending an In-Person Assessment or Receiving Similar Services

There may be circumstances where the local WFC staff determine that it is unreasonable for a claimant to attend an in-person assessment. In those instances, the WFC staff must document the reason for waiving the claimant's responsibility.

The first circumstance will occur when the distance that a claimant must travel to attend an in-person assessment is unreasonable. An unreasonable distance is going to vary in different parts of the state (metro versus rural areas). The UI Program is setting a base distance of 50 miles each way. Any variation from this must be determined by each local office, and the reasoning well documented. In these cases, WFC staff will create a policy or procedural document; the policy must document the reason for the waiver and the alternate method used to accomplish the assessment.

NOTE: Each WFC that opts to create their own policy regarding waivers for distance must receive approval for the policy in advance of waiving the in-person appointment. A copy of the proposed policy should be sent to Sue Rusch (sue.rusch@state.co.us) to be reviewed for appropriateness under the EUC guidelines.

The second circumstance will occur because Colorado law allows for the work search and work registration to be waived for those claimants who are job- or union-attached. Additionally, those claimants in approved training are also exempt from participating in the RES/REA activities. Thus, these claimants will not be notified to attend an in-person appointment by either the UI Program or WDP. If a claimant who is job- or union-attached or is in approved training is erroneously notified to participate in the RES/REA services, WFC staff should complete the RES/REA. If the individual is in approved training, WFC staff can review the claimant's record for similar services and make note as appropriate.

A circumstance may also occur when a claimant received some sort of reemployment services within the last three months. It is redundant for these individuals to complete similar services again to meet the EUC requirements. WFC staff must document the date on which the services were provided and what the services were. WFC staff will enter a new service code (U1, U2,

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U3, or U4) in Connecting Colorado on the date this information was reviewed and determined appropriate for similar services.

EXAMPLE: A customer did not complete the online skills assessment in advance of the one-on-one appointment. The WFC staff reviews services received within the last three months and finds that a silver CareerReady Colorado certificate (CRC) was received one month earlier. A case note should be recorded on the day reviewed. "Customer received a CRC certificate on March 1, 2012, and this meets the similar services portion of the self-assessment requirement."

Referral of Eligibility Issues

All eligibility issues are referred to UI for adjudication. Rescheduling the one-on-one appointment for any reason other than job-seeking related issues (see Rescheduling Appointments/Missed Appointments above) may be a potential eligibility issue. Additionally, WFC staff may discover a potential eligibility issue during the eligibility assessment. Issues being reported will include anything related to a claimant being able to work; being available for work; actively seeking work; or any other issues found during the review of a claimant's work-search log or eligibility survey.

In any case where an eligibility issue is being referred to UI, WFC staff will document in an e-mail the potential issue discovered. WFC staff will send the e-mail to uiworkforce.euc@state.co.us. WFC staff will type **EUC Eligibility-T1T2** in the subject line of the e-mail. In the body of the e-mail, include the last 4 digits of the claimant's social security number, the claimant's full name, and a brief and factual description of the eligibility issue. UI staff are assigned to monitor the mailbox and will follow through to adjudicate each issue.

Failure to attend the scheduled appointment is considered a potential eligibility issue for the week in which it occurs. In a case where a potential issue is referred because the claimant missed or rescheduled a meeting, good cause, in accordance with the Regulations Concerning Employment Security 12.1.8, must be considered. When considering good cause, the basic guidelines to consider are whether the claimant acted in a reasonably prudent manner and whether there are factors outside the claimant's control. A potential eligibility issue may or may not result in a disallowance depending on each individual's circumstances. Facts to make the determination will be gathered during the adjudication process. However, a disallowance of benefits may result in a disallowance until such time as the claimant meets the requirements and/or the circumstance is corrected.

INQUIRIES:

Unemployment Insurance Staff

Please direct all inquiries to Chris Fuss. If Chris is not available, please contact Nancy Wrigley.

Workforce Development Programs or Workforce Center Staff

Please direct all inquiries to Sue Rusch.



Jeff Fitzgerald
Unemployment Insurance Director