

Justification for Non-Substantive Change Request, 1205-0028

OMB 1205-0028 (ETA 539) is impacted by the Worker, Homeownership, and Business Assistance Act of 2009 (Worker Assistance Act), Public Law No. 111-92, enacted on November 6, 2009. Unemployment Insurance Program Letter (UIPL) Nos. 23-08 and 23-08, Changes 1, 2, 3, and 4, notes changes to some instructions pertinent to its use for states with certain levels of high unemployment for unemployment beginning after November 6, 2009. The form itself, however, is not changed.

- It increases the maximum EUC08 Second-Tier entitlement from 13 weeks to 14 weeks of benefits in all states, and this Tier is no longer triggered on by a state reaching a specified rate of unemployment;
- It creates a EUC08 Third-Tier providing up to 13 additional weeks of benefits (for a total of up to 47 weeks of EUC08) in states with a 13-week insured unemployment rate of at least 4 percent or a three-month average total unemployment rate of at least 6 percent;
- It creates a EUC08 Fourth-Tier providing up to 6 additional weeks of benefits (for a total of up to 53 weeks of EUC08) in states with a 13-week insured unemployment rate of at least 6 percent or a three-month average total unemployment rate of at least 8.5 percent.

In addition, there are two provisions regarding the coordination of benefits:

- A state may continue to pay Extended Benefits (EB), prior to EUC08 under the amendments made by the Worker Assistance Act, to individuals who were in EB claims status at the time of enactment of that Act, notwithstanding the state's prior election to pay EUC08 before EB.
- If a state determines that implementation of the increased entitlement to EUC08 Second-Tier (i.e., 13 to 14 weeks) would unduly delay prompt payment of EUC08, the state may elect to pay EUC08 Third-Tier prior to payment of the increased amount of EUC08 Second-Tier until such time as the state determines that the increased EUC08 Second-Tier may be paid without undue delay.

The expiration date and phase-out period described in UIPL No. 23-08, Change 4 has not changed. However, in applying the phase out, states will need to take into account that EUC08 Second-Tier no longer has a trigger and, for affected states, take into account the new EUC08 Third and Fourth-Tiers. Accordingly, if an individual exhausts EUC08 First-Tier on or before December 31, 2009, the individual may qualify for EUC08 Second-Tier. Further, if an individual exhausts EUC08 Second-Tier or Third-Tier on or before December 31, 2009, the individual may qualify for the next higher Tier, if an EUC08 Third-Tier or Fourth-Tier period (whichever is appropriate) is either then in effect or subsequently triggers "on" (even if that period triggers "on" after December 31, 2009). However, an individual may not move to the next (a higher) Tier if s/he exhausts a EUC08 Tier after December 31, 2009. (In states where the week

ending date is a Saturday, the last week of potential eligibility would be the week ending December 26, 2009.)

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On November 13, 2009, ETA issued Unemployment Insurance Program Letter No. 23-08, Change 5, supplementing previously issued guidance issued in UIPL Nos. 23-08 and 23-08, Changes 1, 2, 3, and 4 and governing any inconsistencies. This UIPL is attached as a supplementary document. It includes a set of questions and answers regarding the expansion of the EUC08 program and sets forth additional operating and reporting instructions to guide states in implementing and administering the program. There have been no changes to reporting definitions, the number of respondents or frequencies of responses. The changes only reflect comments provided with the report and accommodate necessary reporting activity due to creation of new entitlements as a result of Public Law No. 111-92.

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