

## Conformity Requirements for State UC Laws

### *Confidentiality and Disclosure of State UC Information*

#### **Background**

Section [303\(a\)\(1\)](#), SSA, requires that states have “methods of administration . . . reasonably calculated to insure full payment of unemployment compensation when due.” The Department of Labor has historically interpreted this section to require states to protect the confidentiality of UC information. Thus, information obtained in the administration of the state’s UC law (employer, claim, and wage information) is, with some exceptions, not subject to disclosure.

Exceptions to this confidentiality requirement include the statutorily required disclosures found in Title III, [SSA](#) and in [FUTA](#). Other exceptions, including disclosure to public officials (or their agents or contractors) in the performance of their official duties, disclosure on the basis of informed consent, and disclosure in response to officials with subpoena power, are optional for states.

In most cases involving the disclosure of confidential UC information, there must be a written agreement with the state or state UC agency that contains safeguards to protect against unauthorized access, use, and redisclosure, and that provides for payment of the costs of disclosure.

The Department codified the confidentiality and disclosure requirements at [20 CFR Part 603](#), published at 71 Fed. Reg. 56830 on September 27, 2006.

#### **Frequently Asked Questions**

1. What disclosures are required by Federal law?

The statutorily required disclosures of confidential UC information are exceptions to the confidentiality requirement and are found in Title III, SSA and in the FUTA. They are:

- Dept. of Agriculture and State Food Stamp Agencies
- Railroad Retirement Board
- State Child Support Enforcement (IV-D) Agencies
- HHS (National Directory of New Hires)
- HUD (Public Housing Agencies)
- TANF (Temporary Assistance for Needy Families)
- IEVS (Income and Eligibility Verification System)

## 2. What are the other exceptions to the confidentiality requirement?

Aside from the disclosures required under Federal law, other permissible exceptions to the confidentiality requirement exist. The following disclosures of confidential UC information are permissible if authorized under state law and if the disclosure does not interfere with the efficient administration of the state UC law:

- Informed consent (disclosures to the individual or employer's agent/attorney and to third parties),
- Public official in the performance of his/her official duties, and
- Agent or contractor of public official to whom disclosure is permitted.

Disclosure in response to a court order or to an official with subpoena authority is also permissible (without the above restrictions).

## 3. What are the requirements for reimbursement of costs for disclosure of confidential UC information?

The costs for any disclosures made for purposes other than administration of the UC program must be reimbursed. The underlying statutory principle for this rule is that funds granted under Title III, SSA for the administration of the state UC law may not be used for other purposes (see Sections [302\(a\)](#), [303\(a\)\(8\)](#), and [303\(a\)\(9\)](#), SSA). The requirement for the payment of costs would be met when a state UC agency has in place a reciprocal data-sharing agreement which provides for an equal benefit for the UC agency or arrangement with another agency or entity to pay the costs associated with the disclosure.

Limited exceptions exist for requests that involve incidental staff time/ nominal processing costs and for some situations involving subpoenas (for example, where a court has denied recovery of costs or where obtaining reimbursement of costs for disclosure to an official with subpoena authority was attempted but was unsuccessful).

### **References**

[UIPL 21-99](#). The Workforce Investment Act of 1998 - Affect (sic) on the Unemployment Insurance Program, Attachment B, pages 4-5.

[20 CFR Part 603](#). Confidentiality and Disclosure of State UC Information.