



**DEPARTMENT OF UNEMPLOYMENT ASSISTANCE  
UI POLICY & PERFORMANCE  
INTEROFFICE MEMORANDUM**

**Date:** March 13, 2019

**Rescission(s):** None

**Reference Number:** UIPP 2019.03

**TO:** All DUA Managers and Staff

**FROM:** UI Policy & Performance Department

**SUBJECT:** Guidance on Adjudicating "Still Employed" issues due to the Federal Shutdown

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**1. Purpose**

To provide guidance related to the processing of UCFE claims filed by furloughed Federal employees during the December 22, 2018 through January 25, 2019 Federal Government shutdown.

**2. Attachment(s)**

Unemployment Insurance Program Letter (UIPL) No. 31-13, Change 1.

**3. Background**

During the recent shutdown of the Federal Government from December 22, 2018 through January 25, 2019, thousands of Federal workers were placed on "Furlough" for some or all of that period. The U.S. Department of Labor (USDOL) issued UIPL No. 31-13, change 1, providing guidance on how these claims should be adjudicated.

**4. Action**

Per the guidance from USDOL regarding these UCFE claims, claimants who were out of work due to the Federal shutdown should be considered "Still Employed" for that period of time.

Adjudication Staff should perform the following on all identified Federal claims:

- Ensure a Federal employer and associated still employed issue is attached to the claim.
  - If no Still Employed – Full Time Employment issue was created, create a new Still Employed issue.
- The start and end dates of the Still Employed – Full Time Employment issue on the claim will be for the period of time of the shutdown (December 22, 2018 through January 25, 2019).
  - This will create a potential overpayment if the claimant received payment for any weeks claimed during the shutdown.
- Upload the attached UIPL No. 31-13, Change 1 from USDOL into the case material when processing the Still Employed – Full Time Employment disqualification for the weeks the claimant was certifying for benefits during the Federal shutdown.
  - This uploaded USDOL UIPL will act as the Employer fact-finding.
  - Do **NOT** send the Employer fact-finding.
- Ensure the claimant has received a Still Employed – Full Time Employment questionnaire.
  - Any overpayments will be non-Fraud. Do **NOT** send the claimant a Fraud/Fault questionnaire.

- When making a determination, please remember not all Federal employees were part of the shutdown.
  - A review of current Federal employee lists indicates there may be permanent separations or subsidiary employment issues on claims not involving the Federal shutdown.
  - If the claimant fails to respond to the Still Employed – Full Time Employment questionnaire, Adjudication Staff must attempt to contact the claimant via telephone (Telephone fact-finding, 48 hour deadline, etc.) to substantiate whether or not the claimant’s separation was due to the Federal shutdown.
- All disqualifications should cite §29(a)&1(r) as the Section of Law on the determination.
  - Use the “Ineligible - Full-Time” Rationale.

Issue Information	
Issue Identification Number: 0027 7041 46-01	Program Type: Regular UI
Issue Status: Pending	Issue Level: Adjudication
Type: Still Employed	Employer: DEPARTMENT OF THE TREASURY //INTERNAL REVENUE SERVICE
Sub-Type: Full Time Employment	Adjuster: Bent, Hal
Select Rationale	
<input type="radio"/> Eligible	
<input checked="" type="radio"/> Ineligible - Full-time	

- All disqualifications should have a start date and end date. There should be no indefinite disqualifications for Still Employed – Full Time Employment.

Issue Details	
Type: Still Employed	<a href="#">Fact Finding (1)</a>
Sub-Type: Full Time Employment	<a href="#">Issue Notes (6)</a>
	<a href="#">Pending Issues (2)</a>
Last Maintenance: 2/27/2019 9:40:23 AM-Bent, Hal	Employer Name: DEPARTMENT OF THE TREASURY //INTERNAL REVENUE SERVICE
Issue Detection Date: 2/15/2018 (mm/dd/yyyy)	Employer Account Number: 10000079 - 10 <input type="button" value="Change"/>
Issue Start Date: 12/22/2018 (mm/dd/yyyy)	Issue End Date: 1/25/2019
Issue Source: Continued Claims	Interested Party: <input checked="" type="radio"/> Yes <input type="radio"/> No

- The Federal employer and Claimant both receive a copy of the determination.

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Sub-Type: Full Time Employment	Adjuster: Bent, Hal
Determination Recipients	
<input checked="" type="checkbox"/>	QLLCXUCYGW, RZKBIWFIUB
<input checked="" type="checkbox"/>	DEPARTMENT OF THE TREASURY //INTERNAL REVENUE SERVICE

- Adjudication Staff must take Workload Credit for any disqualification which was a result of the Federal shutdown.
- Claimant Fault/Fraud must be “No”.

Workload Credit: <input checked="" type="radio"/> Yes <input type="radio"/> No	Claimant Fault/Fraud: <input type="radio"/> Yes <input checked="" type="radio"/> No
<input type="button" value="Previous"/> <input type="button" value="Close"/> <input type="button" value="Next"/>	

- In “Additional notes to be printed on the Claimant's determination:” Adjudication Staff must add text to indicate the reason for the disqualification and reference the USDOL UIPL:
  - “You were out of work due to the Federal shutdown. Per Unemployment Insurance Program Letter (UIPL) No. 31-13, Change 1, you are considered “Still Employed” for that period of time.”
- In “Additional notes to be printed on the Employer's determination:” Adjudication Staff must add text to indicate the reason for the disqualification and reference the USDOL UIPL:
  - “The claimant was out of work due to the Federal shutdown. Per Unemployment Insurance Program Letter (UIPL) No. 31-13, Change 1, the claimant is considered “Still Employed” for that period of time.”

**Additional notes to be printed on the Claimant's determination:**

You were out of work due to the Federal shutdown. Per Unemployment Insurance Program Letter (UIPL) No. 31-13, Change 1, you are considered “Still Employed” for that period of time.

**Additional notes to be printed on the Employer's determination:**

The claimant was out of work due to the Federal shutdown. Per Unemployment Insurance Program Letter (UIPL) No. 31-13, Change 1, the claimant is considered “Still Employed” for that period of time.

## 5. Additional Guidance

- **IMPORTANT:** Do **NOT** resolve these issues as a Remuneration – Back Pay Award issue.
  - The guidance from USDOL is very clear that this issue must be adjudicated under §29(a)&1(r), not §1(r)(3). Any Remuneration – Back Pay Award issues created incorrectly by the claimant, employer/third-party agent, or staff should be voided.
- **REMINDER:** Claimants who were overpaid as Federal employees in the shutdown will receive their determination stating how much is owed and containing instructions on how to make a repayment.
  - They should **NOT** send any repayment prior to receiving the notice, as DUA will not be able to process any repayments until these Still Employed – Full Time Employment issues have been processed.
  - Please note that the repayment amount for claimants who were overpaid as Federal employees in the shutdown will be for the entire benefit amount including any taxes, child support, etc. they chose to have withheld.
- **IMPORTANT:** Again, when making a determination using available information, please remember not all Federal employees were part of the shutdown.
  - A review of current Federal employee lists indicates there may be permanent separations or subsidiary employment issues on claims not involving the Federal shutdown.
  - If it is substantiated that the claimant was not part of the Federal shutdown, the Still Employed – Full Time Employment issue should be voided.

## 6. Questions

Any questions regarding adjudicating “Still Employed” issues due to the Federal shutdown should be directed to the UI Policy and Performance Department at 617-626-6422.