6014 Separation Information Requirements Designed To Meet Department of Labor Criteria:

A. Information to agency. Where workers are separated, employers are required to furnish information promptly, either upon agency request or upon such separation, a notice describing the reasons for and the circumstances of the separation and any additional information which might affect a claimant’s right to benefits. Where workers are working less than full time, employers are required to furnish the agency promptly, upon agency request, information concerning a claimant’s hours of work and his wages during the claim periods involved, and other facts which might affect a claimant’s eligibility for benefits during such periods.

When workers are separated and the notices are obtained on a request basis, or when workers are working less than full time and the agency requests information, it is essential to the prompt processing of claims that the request be sent out promptly after the claim is filed and the employer be given a specific period within which to return the notice, preferably within 2 working days.

When workers are separated and notices are obtained upon separation, it is essential that the employer be required to send the notice to the agency with sufficient promptness to insure that, if a claim is filed, it may be processed promptly. Normally, it is desirable that such a notice be sent to the central office of the agency, since the employer may not know in which local office the worker will file his claim. The usual procedure is for the employer to give the worker a copy of the notice sent by the employer to the agency.

B. Information to worker:

1. Information required to be given. Employers are required to give their employees information and instructions concerning the employees’ potential rights to benefits and concerning registration for work and filing claims for benefits.

The information furnished to employees under such a requirement need not be elaborate; it need only be adequate to insure that the worker who is separated or who is working less than full time knows he is potentially eligible for benefits and is informed as to what he is to do or where he is to go to file his claim and register for work. When he files his claim, he can obtain more detailed information.

In States that do not require employers to furnish periodically to the State agency detailed reports of the wages paid to their employees, each employer is required to furnish to his employees information as to (a) the name under which he is registered by the State agency, (b) the address where he maintains his payroll records, and (c) the workers’ need for this information if and when they file claims for benefits.

2. Methods for giving information. The information and instructions required above may be given in any of the following ways:

a. Posters prominently displayed in the employer’s establishment. The State agency should supply employers with a sufficient number of posters for distribution throughout their places of business and should see that the posters are conspicuously displayed at all times.

b. Leaflets. Leaflets distributed either periodically or at the time of separation or reduction of hours. The State agency should supply employers with a sufficient number of leaflets.

c. Individual notices. Individual notices given to each employee at the time of separation or reduction in hours.

It is recommended that the State agency’s publicity program be used to supplement the employer-information requirements. Such a program should stress the availability and location of claim-filing offices and the importance of visiting those offices whenever the worker is unemployed, wishes to apply for benefits, and to seek a job.

6015 Evaluation of Alternative State Provisions with Respect to Claim Determinations and Separation Information. If the State law provisions do not conform to the suggested requirements set forth in sections 6013 and 6014, but the State law contains alternative provisions, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effects of the alternative provisions. If the Administrator of the Bureau does not so conclude, he will so notify the State agency. If the Administrator of the Bureau does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Administrator of the Bureau does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy the criteria, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, §601.5.

Appendix C to Part 617—Standard for Fraud and Overpayment Detection

7510 Federal Law Requirements. Section 303(a)(1) of the Social Security Act requires that a State law include provision for: “Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due.”
Section 1603(a)(4) of the Internal Revenue Code and section 3030(a)(5) of the Social Security Act require that a State law include provision for:

1. Check paid claims for overpayment and, where possible, recover all payments made in error. Where the recovery of overpayments is not feasible, overpayment amounts should be charged against future payments on the same claimant. When a claimant is terminated with an overpayment in effect, the agency may make the outstanding overpayment a part of the final payment due the claimant.

2. Perform consultative services with respect to methods and procedures for the prevention and detection of fraud; and
3. Perform other services which are closely related to the above.

Although a State agency is expected to make a full-time assignment of responsibility to a unit or individual to carry on the functions described above, a small State agency might make these functions a part-time responsibility of one individual. In connection with the detection of overpayments, such a unit or individual might, for example:

(a) Investigate information on suspected benefit fraud received from any agency personnel, and from sources outside the agency, including anonymous complaints;

(b) Investigate information secured from comparisons of benefit payments with employment records to detect cases of concurrent working (whether in covered or non-covered work) and claiming of benefits (including benefit payments in which the agency acted as agent for another State).

The benefit fraud referred to herein may involve employers, agency employees, and witnesses, as well as claimants.

Comparisons of benefit payments with employment records are commonly made either by post-audit or by industry surveys. The so-called "post-audit" is a matching of central office wage-record files against benefit payments for the same period. "Industry surveys" or "mass audits" are done in some States by going directly to employers for payroll information to be checked against benefit payment files in the agency. Comparisons for the same period. "Industry surveys" or "mass audits" are done in some States by going directly to employers for payroll information to be checked against benefit payment files in the agency. The benefit fraud referred to herein may involve employers, agency employees, and witnesses, as well as claimants.

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misrepresentation or willful nondisclosure of facts.

Public announcements on convictions and resulting penalties for fraud are generally considered necessary as a deterrent to other persons, and to inform the public that the agency is carrying on an effective program to prevent fraud. This alone is not considered adequate publicity. It is important that information be circulated which will explain clearly and understandably the claimant’s rights, and the obligations which he must fulfill to be eligible for benefits. Leaflets for distribution and posters placed in local offices are appropriate media for such information.

*7515 Evaluation of Alternative State Provisions with Respect to Erroneous and Illegal Payments.* If the methods of administration provided for by the State law do not conform to the suggested methods of meeting the requirements set forth in section 7511, but a State law does provide for alternative methods of administration designed to accomplish the same results, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effect of the alternative methods of administration. If the Bureau concludes that the alternative methods satisfy the criteria in section 7513, it will so notify the State agency. If the Bureau does not so conclude, it will submit to the Secretary the results of the study for his determination of whether the State’s alternative methods of administration meet the criteria.


PART 618—TRADE ADJUSTMENT ASSISTANCE UNDER THE TRADE ACT OF 1974, AS AMENDED

Subpart A–G [Reserved]

Subpart H—Administration by Applicable State Agencies


§ 618.890 Merit staffing.

(a) Merit-based State personnel. The State must, subject to the transition period in paragraph (b) of this section, engage only State government personnel to perform Trade Adjustment Assistance (TAA)-funded functions undertaken to carry out the worker adjustment assistance provisions of the Trade Act of 1974, as amended, and must apply to such personnel the standards for a merit system of personnel administration applicable to personnel covered under 5 CFR part 900, subpart F.

(b) Transition period. A State not already in compliance with the merit system requirement of paragraph (a) of this section must comply by December 15, 2010.

(c) Exemptions for States with employment service operation exemptions. A State whose employment service received an exemption from merit staffing requirements from the Secretary of Labor (Secretary) under the Wagner-Peyser Act will retain an exemption from the requirements of paragraph (a) of this section. To the extent that a State with an authorized ES exemption provides TAA-funded services using staff not funded under the Wagner-Peyser Act, the exemption in this paragraph does not apply, and they remain subject to the requirements of paragraph (a) of this section. To the extent that a State with an authorized ES exemption provides TAA-funded services using staff not funded under the Wagner-Peyser Act, the exemption in this paragraph does not apply, and they remain subject to the requirements of paragraph (a) of this section.

(d) Exceptions for non-inherently governmental functions. The requirements of paragraph (a) of this section do not prohibit a State from outsourcing functions that are not inherently governmental, as defined in Office of Management and Budget (OMB) Circular No. A–76 (Revised), and in any supplemental OMB guidance or superseding authority, and in DOL guidance.

SOURCE: 75 FR 17000, Apr. 2, 2010, unless otherwise noted.

Subpart A–G [Reserved]