

## §619.2

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Tax Systems by SWAs using Federal funds.

*State* or *States* refers to, individually or collectively, the 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

*State Identification Inquiry* means the ICON application which allows SWAs to inquire about wages reported to other SWAs by Social Security Number.

*State Information Data Exchange System* or *SIDES* means an automated response system used by SWAs to collect claim-related information from employers and third-party administrators.

*State unemployment compensation law* or *UC law* means the law of a State approved under Section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)).

*State Workforce Agency* or *SWA* means the agency of the State charged with the administration of the State's Unemployment Compensation (UC) law.

*Unemployment Compensation* or *UC* means cash benefits payable to individuals with respect to their unemployment, as defined in 26 U.S.C. 3306(h).

*Unemployment Insurance* or *UI* means the Federal-State system and operations administering and implementing UC law.

*Withdrawn/Invalid Claims* means the ICON application which allows for the posting and viewing of withdrawn or invalid claim information for SWAs.

### §619.2 Data exchange standardization for ICON.

(a) XML is the data exchange standard for the real-time ICON applications. These applications are: Interstate Wages and Benefits Inquiries/Responses; Withdrawn/Invalid Claims; and State Identification Inquiry.

(b) All SWAs using real-time ICON applications must comply with this XML data exchange standard no later than September 30, 2018. A SWA may request an extension of this deadline if it demonstrates that resources are not available to meet this requirement. These requests must be submitted in writing to the Administrator of the Office of Unemployment Insurance no later than 6 months before the dead-

line; requests will be approved or denied within 30 days.

### §619.3 Data exchange standardization for SIDES.

(a) XML is the data exchange standard for SIDES.

(b) This standard applies to any Federally-funded SIDES consortium, and any future agents of the Department providing vendor services for the development, maintenance, support, and operations of the SIDES, and for any State that adopts SIDES. A SIDES consortium involves a group of two or more States jointly establishing a project team to oversee the design, development, and implementation of a new SIDES data exchange module. As States implement SIDES or new data exchange modules of SIDES, they must conform to this data exchange standard by application design.

(c) XML is designated as the data exchange standard to govern the reporting of information through SIDES data exchange modules. The regulation applies to current SIDES data exchange modules and any future SIDES data exchange modules developed with Federal funds.

(d) The standard designated in paragraphs (a), (b), and (c) of this section is effective March 21, 2014.

### §619.4 Data exchange standardization for the UI Benefits and Tax Systems.

(a) XML is the data exchange standard for the real time ICON applications set out in §619.2 and for the SIDES exchanges set out in §619.3 associated with major IT modernization projects, to upgrade UI Benefits and Tax Systems by SWAs using Federal funds.

(b) The standard designated in paragraph (a) of this section is effective March 21, 2014.

## PART 620—DRUG TESTING FOR STATE UNEMPLOYMENT COMPENSATION ELIGIBILITY DETERMINATION PURPOSES

Sec.

620.1 Purpose.

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which applicants may be drug tested when applying for State unemployment compensation.

620.4 Testing of unemployment compensation applicants for the unlawful use of a controlled substance.

620.5 Conformity and substantial compliance.

AUTHORITY: 42 U.S.C. 1302(a); 42 U.S.C. 503(1)(1)(A)(ii).

SOURCE: 84 FR 53051, Oct. 4, 2019, unless otherwise noted.

### § 620.1 Purpose.

The regulations in this part implement 42 U.S.C. 503(1). 42 U.S.C. 503(1) permits States to enact legislation to provide for State-conducted testing of an unemployment compensation applicant for the unlawful use of controlled substances, as a condition of unemployment compensation eligibility, if the applicant was discharged for unlawful use of controlled substances by his or her most recent employer, or if suitable work (as defined under the State unemployment compensation law) is only available in an occupation for which drug testing is regularly conducted (as determined under this part). 42 U.S.C. 503(1)(1)(A)(ii) provides that the occupations that regularly conduct drug testing will be determined under regulations issued by the Secretary of Labor.

### § 620.2 Definitions.

As used in this part—

*Applicant* means an individual who files an initial claim for unemployment compensation under State law. Applicant excludes an individual already found initially eligible and filing a continued claim.

*Controlled substance* means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of 21 U.S.C. 801 *et seq.*, as defined in Sec. 102 of the Controlled Substances Act (21 U.S.C. 802). The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

*Occupation* means a position or class of positions with similar functions and duties. Federal and State laws governing drug testing refer to classes of

positions that are required to be drug tested. Other taxonomies of occupations, such as those in the Standard Occupational Classification (SOC) system, may be used by States in determining the boundaries of a position or class of positions with similar functions and duties under § 620.3. Use of the SOC codes, however, is not required, and States may use other taxonomies to identify a position or class of positions with similar functions and duties.

*Suitable work* means suitable work as defined by the unemployment compensation law of a State against which the claim is filed. It must be the same definition the State law otherwise uses for determining the type of work an individual must seek, given the individual's education, experience, and previous level of remuneration.

*Unemployment compensation* means any cash benefits payable to an individual with respect to the individual's unemployment under the State law (including amounts payable under an agreement under a Federal unemployment compensation law).

### § 620.3 Occupations that regularly conduct drug testing for purposes of determining which applicants may be drug tested when applying for State unemployment compensation.

In electing to test applicants for unemployment compensation under this part, States may enact legislation to require drug testing for applicants for whom the only suitable work is in one or more of the following occupations that regularly conduct drug testing, for purposes of § 620.4:

(a) An occupation that requires the employee to carry a firearm;

(b) An occupation identified in 14 CFR 120.105 by the Federal Aviation Administration, in which the employee must be tested;

(c) An occupation identified in 49 CFR 382.103 by the Federal Motor Carrier Safety Administration, in which the employee must be tested;

(d) An occupation identified in 49 CFR 219.3 by the Federal Railroad Administration, in which the employee must be tested;

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(e) An occupation identified in 49 CFR 655.3 by the Federal Transit Administration, in which the employee must be tested;

(f) An occupation identified in 49 CFR 199.2 by the Pipeline and Hazardous Materials Safety Administration, in which the employee must be tested;

(g) An occupation identified in 46 CFR 16.201 by the United States Coast Guard, in which the employee must be tested;

(h) An occupation specifically identified in Federal law as requiring an employee to be tested for controlled substances;

(i) An occupation specifically identified in the State law of that State as requiring an employee to be tested for controlled substances; and

(j) An occupation where the State has a factual basis for finding that employers hiring employees in that occupation conduct pre- or post-hire drug testing as a standard eligibility requirement for obtaining or maintaining employment in the occupation.

### **§ 620.4 Testing of unemployment compensation applicants for the unlawful use of a controlled substance.**

(a) States may require drug testing for unemployment compensation applicants, as defined in § 620.2, for the unlawful use of one or more controlled substances, as defined in § 620.2, as a condition of eligibility for unemployment compensation, if the individual is one for whom suitable work, as defined in State law, as defined in § 620.2, is only available in an occupation that regularly conducts drug testing as identified under § 620.3.

(b) A State conducting drug testing as a condition of unemployment compensation eligibility, as provided in paragraph (a) of this section, may only elect to require drug testing of applicants for whom the only suitable work is available in one or more of the occupations listed under § 620.3. States are not required to apply drug testing to any applicants for whom the only suitable work is available in any or all of the occupations listed.

(c) No State is required to drug test UC applicants under this part 620.

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### **§ 620.5 Conformity and substantial compliance.**

(a) *In general.* A State law implementing the drug testing of applicants for unemployment compensation must conform with—and the law's administration must substantially comply with—the requirements of this part 620 for purposes of certification under 42 U.S.C. 502(a), governing State eligibility to receive Federal grants for the administration of its UC program.

(b) *Resolving issues of conformity and substantial compliance.* For the purposes of resolving issues of conformity and substantial compliance with the requirements of this part 620, the provisions of 20 CFR 601.5 apply.

## **PART 621 [RESERVED]**

### **PART 625—DISASTER UNEMPLOYMENT ASSISTANCE**

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- 625.30 Appeal Procedures for Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands.