

**STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON HUMAN RESOURCES  
COMMITTEE ON WAYS AND MEANS  
UNITED STATES HOUSE OF REPRESENTATIVES  
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Good morning Chairman Davis, Ranking Member Doggett, and members of the Subcommittee. Thank you for the invitation to testify today and for holding this hearing on the Unemployment Insurance (UI) provisions in the Middle Class Tax Relief and Job Creation Act of 2012 (the Act), which extends UI benefits for long-term unemployed workers and includes a number of important UI reforms that align with the President's priorities. This is an exciting time for the UI program and I welcome the opportunity to talk to you about what we are doing to implement these provisions.

Let me start by thanking the Congress for extending the Emergency Unemployment Compensation (EUC) program and full Federal funding for the Extended Benefit (EB) program. We estimate that about 5.3 million unemployed workers will receive more weeks of benefits as a result of this extension – benefits that are a critical lifeline for these workers as the economy recovers and more jobs are created.

While our economy is now growing and new jobs are being created each month, too many American workers are still unable to find work—particularly the 5.3 million long-term unemployed. Therefore, the provisions in the Act focusing on reemployment are particularly important, including Self Employment Assistance (SEA), and the provision of reemployment

services (RES) and reemployment and eligibility assessments (REAs) for EUC claimants, both of which have been Administration priorities and were proposed in the American Jobs Act. In addition, the provisions encouraging states to implement or expand short-time compensation (STC) programs will now provide an important new tool for states to implement layoff aversion strategies, helping workers to remain employed and employers to retain skilled workers. The opportunity for the Secretary of Labor (Secretary) to enter into agreements with states to both demonstrate and evaluate new reemployment strategies will support reemployment and provide all of us with evidence-based information to inform future UI reforms.

My staff in the Office of Unemployment Insurance has been working diligently to provide the necessary guidance and technical assistance to states to implement these provisions and we have made significant progress in a very short amount of time. While substantial work has been done in all areas, we prioritized those areas requiring immediate implementation. Our early focus was on issuing guidance and providing technical assistance about the EUC extension and the complex changes to the EUC program including the RES/REA provisions, which required guidance and state implementation within 30 days; consultation with stakeholders and program experts about STC and SEA; and developing guidance on the application process for the reemployment demonstration projects. I am pleased that I can report that we have accomplished all of these early deliverables and we expect that additional guidance on the remaining provisions, including the guidance on STC and SEA, and other required tools, such as the model legislative language for both STC and SEA, will be issued within the next several weeks. More information about each of these components and the other UI-related provisions in the Act are provided below.

As you know, implementing several major new program initiatives concurrently is a challenging undertaking for both the Department of Labor (Department) and for states, and there are a number of factors that can impact timing for implementation of each of these provisions. As an example, many of the provisions are requiring new financial and programmatic processes, which, in turn trigger the need to develop packages for clearance under the Paperwork Reduction Act (PRA). From a state perspective, a number of provisions require state law changes, limiting states' ability to quickly implement them. In addition, states necessarily have had to focus in the short term on implementing mandatory EUC changes, including the new RES/REA requirements, and have not yet been able to give significant attention to implementing the optional provisions. I am pleased to report that states are generally being very successful at implementing the mandatory provisions and are doing so in very short time windows.

Below is a more detailed review of our implementation of the various UI provisions in the Act.

#### EXTENSIONS AND EUC CHANGES

As you know, UI benefits are a crucial lifeline for jobless workers, their families, and local communities. Keeping these benefits available to long-term unemployed workers was a high priority for the President and, again, I appreciate the subcommittee's efforts to ensure that they remain available.

The Act provides vital assistance to America's long-term unemployed workers by extending the EUC program and provisions enabling EB to remain available in states longer. In addition to the actual extension of EUC benefits, the Act made a number of significant and complex changes to the structure of the program including changes to the number of weeks available in the 4 tiers of benefits as well as the triggers for states to provide the various tiers of benefits. These

structural changes will reshape the program every quarter until the program ends completely, with no phase out, on January 2, 2013. The complexity of these changes is a challenge for states to implement. Each change will require new computer programming to implement, something that states with antiquated information technology infrastructure struggle with, and will generate significant workload related to customer call volume due to claimants' difficulty understanding the changes and asking questions about how they impact them. Nonetheless, states have been working extremely hard to comply with all of the new EUC program requirements, with particular emphasis, in the states to which it applies, on making the new 10 weeks of Tier 4 benefits available as quickly as possible to eligible unemployed workers.

The Act makes several other changes to the EUC program. First, it adds a new explicit requirement that individuals be able to work, available to work, and actively seeking work. Actively seeking work is defined to include registration with the employment service, an appropriate search for work, maintenance of a work search record, and the provision of such record to the state agency upon request. Further, the Act requires the Secretary to establish a minimum number of claims states must randomly audit each week to verify individuals' work search efforts. In addition, the Act requires states to recover improper EUC payments by offsetting against benefits payable to individuals. Finally, the Act modifies the EUC "non-reduction rule" to exclude state enactments before March 1, 2012 that would violate this rule by reducing average weekly benefit amounts payable.

Within days of enactment, my staff had a conference call with the state UI agencies to provide initial technical assistance to facilitate state efforts to promptly implement these changes. On March 5, 2012, the Department issued guidance (UI Program Letter 4-10, March 5, 2012) to the states about these programmatic changes. The Secretary and all states signed addenda to their

EUC agreements by March 19, 2012, that contain the new required additions to the EUC program enabling states to continue to operate the program. Additional guidance on the requirement for states to implement work search random audits will be issued soon. We also plan to issue follow-up guidance in a question and answer format to address specific state implementation questions that were not addressed in the original guidance.

## RES/REA

The provisions in the Act for reemployment services and eligibility assessments for all new EUC claimants and current claimants who transition to Tier 2 of EUC benefits is an important step to ensure that long-term unemployed workers are getting the reemployment services they need to regain employment at the earliest possible time. This blended approach to providing reemployment services and eligibility assessments helps reduce the duration of benefit receipt and saves unemployment funds by helping claimants find jobs faster and eliminating payments to ineligible individuals. We know this is a strategy that works. The results of a study of the REA program by IMPAQ International concerning the State of Nevada, which included a combined REA and RES model, showed that combining RES with REAs increased reemployment by close to 20 percent initially and by close to 10 percent into the second year following participation in the program. Use of this model also increased earnings by 25 percent initially and close to 15 percent into the second year after participation. Thus, not only did eligibility assessment and reemployment services have a positive effect on UI duration, but also a persistent effect on employment and earnings. This model also resulted in larger savings to the Unemployment Trust Fund (UTF) than the results from the other states that did not combine these functions. Claimants who received REAs in Nevada received, on average, 2.96 fewer

weeks of benefits than similar claimants, which translated to a reduction in benefit payouts of \$805 per claimant.

The Act makes participation in RES/REA activities and services a condition of EUC eligibility, though participation may be waived under certain limited circumstances. States must:

- Provide labor market and career information;
- Assess individuals' skills;
- Give individuals an orientation to one-stop career center services; and
- Examine individuals' work search activities to review eligibility for EUC.

States also have the option to provide more intensive reemployment and training services.

The Act provides states with funding for RES/REA activities at \$85 per person served. The funding is flowing through either the state's UI agency or employment service agency, at the Governor's discretion. States were strongly encouraged to collaboratively engage the state's UI agency, the state's employment service and Workforce Investment Act agencies, local workforce boards, and One-Stop Career Centers in planning for implementation.

The Secretary was required, by statute, to issue guidance on implementation of RES/REA activities not later than 30 days after enactment (March 23, 2012) and the guidance was issued on March 16, 2012—seven days in advance of this requirement. To provide additional technical assistance to states, we held several calls with states and hosted a webinar on March 21, 2012, to amplify our guidance.

It has been a challenge for states to ramp up to implement the RES/REA requirements quickly and to increase necessary capacity to serve an additional 4 million EUC claimants through the

end of the year. In our guidance, we instruct the states to contact individuals by the third week in their claim series and to schedule in-person REA/RES by the sixth week in their claim series.

Based on information collected through the Employment and Training Administration's Regional Offices, many states were able to implement by mid-April and most states will implement by the first week of May.

I would also note that we are in the process of implementing a state reporting process that will capture employment and retention outcomes for those served, utilizing existing reporting processes used for the employment service.

#### DEMONSTRATION PROJECTS

Helping unemployed Americans find good jobs is a top priority for the President. For this reason, we are pleased to have the opportunity to promote innovative reemployment strategies.

The Act provides that the Secretary may permit up to 10 states to conduct demonstration projects to expedite the reemployment of individuals who are eligible for "unemployment compensation under the State law of such State" or to improve state effectiveness in carrying out "its State law with respect to reemployment." The scope of state demonstration projects is limited to subsidies for employer-provided training or certain direct disbursements to employers who hire individuals receiving UI benefits.

In order to carry out these demonstration projects states may request a waiver of two requirements in Federal law. Among other things, these waivers could permit a state to use funds from the state's account in the Unemployment Trust Fund to support the demonstration project. In recognition of the importance of maintaining reserves for the payment of

unemployment compensation, the demonstration projects may “not result in any increased net costs to the state’s account in the Unemployment Trust Fund.”

The Act also permits states to use their UI administrative grants to fund these demonstration projects and establishes additional requirements for states that want to conduct these projects, including a state evaluation of the effects of the demonstration project on individual skill levels, earnings, and employment retention. All projects must last for at least one year and end no later than December 31, 2015.

We know that states are excited about this new opportunity. To ensure that states understand the requirements for an application to be approved and that all states have the chance to apply, Secretary Solis sent letters to the governors to let them know of the opportunity and that application guidance would be forthcoming. Given that this opportunity is limited to only ten states, the application process is designed to allow the Secretary to identify strong demonstration projects and to ensure we can evaluate the effectiveness of these new approaches. UIPL 15-12 was issued on April 19, 2012. An applicant webinar to review the application process is scheduled for April 27, 2012. In addition, the Department plans to conduct a national evaluation of the entire initiative, in addition to the individual state evaluations of their own demonstration projects.

#### SHORT-TIME COMPENSATION

STC, also known as work sharing, is a layoff aversion strategy that enables workers to remain employed and employers to hold onto their trained staff during times of reduced business activity. Expansion of STC is a top priority for this Administration and we are happy to be in

position to advance state implementation of STC programs. While it can be an effective layoff aversion strategy in any economy, it is a particularly important tool in a recession.

The Act includes several STC-related provisions. First, it codifies and modifies the definition of STC, which essentially establishes program requirements. While much of this definition is consistent with prior law, there are some key changes including maintenance of health and retirement benefits for STC participants. States that had been operating an STC program prior to enactment of the Act have 2 ½ years to amend their laws to conform to the new definition.

To encourage states to enact state STC programs and give states an incentive to promote the use of STC, the Act provides for 100 percent reimbursement of STC benefit costs paid under state law for up to 156 weeks (three years). Authority to provide these reimbursements ends 3 years and 6 months after the date of enactment of the Act (August 22, 2015).

In recognition of the fact that states may want to try out an STC program before they are able to get a state STC program enacted, the Act also establishes a voluntary Federal STC program.

Under this program, the Federal government would pay all administrative costs and one-half of the STC benefit costs, and the employer participating in STC would pay the other half of the STC benefit costs. States may participate in the Federal STC program for no more than 104 weeks (two years) and authority for this program ends 2 years and 13 weeks after the date of enactment (May 24, 2014).

To ensure states have adequate administrative resources to implement and promote STC, the Act also provides for just under \$100 million in grants to states whose permanent STC laws meet the new Federal definition. States must submit grant applications no later than December 31, 2014.

States must use 1/3 of their share for implementation or improved administration of their STC

programs. The remaining 2/3 of their share must be used for promoting and enrolling employers in STC programs.

To meet the requirement in the Act to consult with stakeholders and other program experts with regard to model legislative language, technical assistance, and reporting requirements, and to inform our efforts to draft guidance on all of these STC provisions, we held two listening sessions on March 19 and 20, 2012. We are actively working on guidance for all of the STC provisions, but we prioritized first issuing guidance on the new definition of STC, special transition provisions for the 25 states currently operating STC programs, and 100 percent reimbursement of state STC benefit costs. We hope to issue it soon. We anticipate that all states currently operating an STC program will have to make at least some modifications to conform to the new definition. We have coordinated extensively with the Department of the Treasury to establish the processes necessary for these reimbursements to occur and anticipate that these reimbursements will begin to be made shortly after the guidance is issued. Additional guidance on the temporary Federal STC program and the STC grants are under development and will be issued in the near future. We also are establishing a robust outreach and technical assistance strategy to support state take-up and implementation.

#### SELF EMPLOYMENT ASSISTANCE

Both a reemployment strategy and a job creation strategy, SEA helps unemployed individuals establish their own business by providing them with temporary income support (in lieu of receiving regular UC) and access to entrepreneurial training and services. Previous studies show that those who participate in SEA programs are 19 times more likely to remain self-employed than those who do not.

The Act has two key SEA components. First, it expands SEA to the EB and EUC programs. Individuals may receive up to 26 weeks of SEA payments based on EUC, EB, or combined EUC/EB eligibility. The requirements for these programs are generally the same as for state SEA.

Second, the Act provides \$35 million for grants to states that operate any SEA program—a regular state SEA program, an EB SEA program, or an EUC program. The grant amount is determined by formula and states should submit a grant application no later than June 30, 2013. States may receive two grants—one for development, implementation, or administration of an SEA program; and one for promotion and enrollment of individuals in an SEA program.

Similar to the STC program, we hosted two listening sessions on SEA on March 19 and 20, 2012 to meet the requirements of the Act to consult with stakeholders and other program experts, develop model legislative language for state use, provide technical assistance, and establish state reporting requirements. We expect to get guidance on the SEA provisions to states by early May. As required by the Act, we have already engaged with the Small Business Administration (SBA) and are planning outreach and technical assistance to states in partnership with SBA. We have also already begun planning for the required evaluation of the program.

#### PERMANENT UI LAW CHANGES

While many of the provisions of the Act described above are temporary, it also establishes a few permanent law changes with respect to the UI program. First, it adds an explicit statutory requirement that individuals must be able to work, available for work, and actively seeking work in order to be eligible for regular UC. As being “able and available” for work is a longstanding interpretation of Federal law that has been codified in Federal regulation, all states currently

require individuals to meet this requirement as a condition of eligibility for benefits. We are currently reviewing the existing regulation to determine if there is any need to amend it to align with the provision in the Act. For your reference, all states currently require individuals to actively seek work, so there should be little or no operational change to current practice.

In addition, the Act mandates that states recover improper benefit payments via offset from current benefit entitlement under any state and Federal unemployment compensation benefit programs. Under prior law, states had permission to recover improper benefit payments via offset from current benefit entitlement and all states do that. In calendar year 2011, states recovered more than \$440.2 million via these offsets.

The Act also includes a provision concerning drug testing. It permits states to test applicants for use of illegal drugs under certain circumstances as a condition of eligibility for benefits.

Specifically, this authority is limited to two reasons directly related to the “fact or cause” of an individual’s unemployment:

- The applicant was terminated from employment with their most recent employer for unlawful use of drugs; or
- The only work that is suitable for the individual is in an occupation that regularly conducts drug testing.

Policy guidance on this is under development. The Act also requires the Secretary to issue a regulation concerning the occupations that regularly conduct drug testing. We are consulting with the Substance Abuse and Mental Health Administration in the Department of Health and Human Services and others to develop an approach to identifying these occupations that regularly require drug testing as a prelude to developing the required regulation.

## DATA EXCHANGE STANDARDIZATION

Prior to enactment of the Act, the Department had already begun to implement data exchange standardization for the UI program – specifically for the Separation Information Data Exchange System (SIDES) and the Interstate Connection Network (ICON). We welcome the opportunity to continue to expand the interoperability of the UI system with regard to data exchange among states, across programs, and between states and the Federal government.

The Social Security Act, as amended, requires the Secretary, in conjunction with the Office of Management and Budget (OMB), to designate a data exchange standard for any category of UI information required under Titles III, IX, and XII of the Social Security Act. In addition, the Secretary is required to issue a proposed rule within 12 months of enactment and a final rule within 24 months of enactment concerning these standards.

We have reached out to House of Representatives staff to ensure our approach is consistent with Congressional intent. In addition, we have engaged with OMB and state partners through the National Association of State Workforce Agencies to explore areas of opportunity as a prelude to issuing the required regulation.

## CONCLUSION

I appreciate the opportunity to talk to you today about the UI provisions in the Act. My staff in “team UI” is dedicated to helping America’s unemployed workers and welcome the opportunity to implement these vital initiatives. I look forward to continuing to work with the subcommittee on ways to help unemployed workers and improve the UI program to transform our unemployment system into a reemployment system that helps Americans get jobs. I will gladly answer any questions you may have.