



August 12, 2020

Chairman Cooper  
Members of Assembly Budget Subcommittee 4  
State Capitol  
Sacramento, CA 95814

Dear Chairman Cooper and Members of Assembly Budget Subcommittee 4:

At the hearing on July 30, Assemblymember Chiu asked me whether the Employment Development Department (EDD) had taken steps to expedite claim processing and payment similar to the steps the agency took pursuant to a directive issued by Labor and Workforce Development Agency (LWDA) Secretary Morgenstern in 2013. I responded that EDD had taken similar action in addition to other steps to expedite claims processing, and that the U.S. Department of Labor (USDOL) had informed the EDD that it was not acting in conformity with federal requirements in some respects.

### **1. Secretary Su's March 20, 2020 Directive – Expediting Claim Processing**

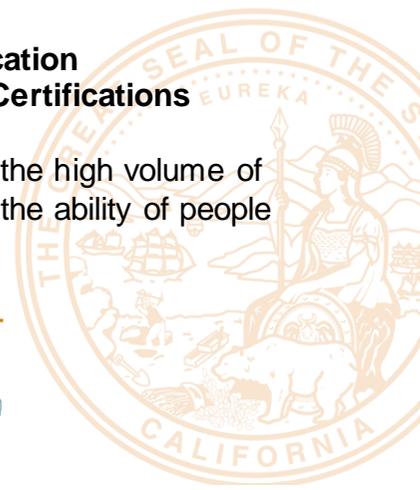
On March 20, 2020, in light of the unprecedented increase in the demand for unemployment insurance (UI) claim filing services, LWDA Secretary Su directed the EDD to “begin immediately paying incoming claims for UI benefits prior to making a final eligibility determination with respect to whether the claimant is able to work and available for work.” This directive was aimed at expediting claims processing to the extent permissible under federal law. Secretary Su’s directive was similar to a directive former Secretary Morgenstern gave in September 2013, requiring EDD to “immediately begin the process of paying backlogged claims for continued UI benefits prior to a final determination of eligibility.”

The March 2020 directive required the EDD to pay benefits, subject to verifying a claimant’s identity; calculating the amount of qualifying wages, if any; and providing the employer with an opportunity to be heard.

USDOL has not raised conformity issues related to this directive.

### **2. Secretary Su's April 23, 2020 Directive – Suspend Weekly Certification Requirement and Conformity Issues Related to Temporary Auto-Certifications**

In April, the UI Online benefits system had slowed due to the strain of the high volume of individuals filing claims and certifying existing claims. This threatened the ability of people



to apply for benefits and EDD's ability to pay benefits, as well as our ability to launch the Pandemic Unemployment Assistance (PUA) program on April 28, implement Pandemic Emergency Unemployment Compensation (PEUC), and make other critical programs available.

In order to preserve our ability to provide timely UI benefits and additional federal pandemic-related benefit programs to Californians suffering financial hardship during this emergency, on April 23, 2020, Secretary Su directed the EDD to exercise temporary emergency flexibility, consistent with state and federal law, not to disqualify a claimant for continuing benefits based on a failure of that claimant to certify for weeks ending March 14, 2020 through May 9, 2020. EDD implemented the directive to suspend the weekly certification requirement for continued claims for this period. However, to remain compliant with federal law, EDD created a separate channel outside of UI Online to collect information from claimants regarding their continuing claims eligibility.

USDOL subsequently notified the EDD that our process to alleviate the strain on UI Online was not in conformity with federal requirements. In addition, on May 11, 2020, USDOL issued Unemployment Insurance Program Letter 23-20, which provided general guidance reminding states of the need to conduct weekly certifications. To comply with federal requirements, the EDD informed USDOL that claimants would be required to retroactively certify for the weeks that were auto-certified; that process is now in progress.

In sum, Secretary Su has directed EDD to exercise flexibility where allowable to expedite payments. To the extent that my comments may have caused confusion, resulting in a misunderstanding that USDOL disallowed the process that Secretary Su authorized on March 20, 2020, I wish to clarify that USDOL has not raised issues with this directive. USDOL raised issues with the directive from Secretary Su on April 23, 2020 suspending the weekly certification requirement for continued claim weeks ending March 14, 2020 through May 9, 2020.

Thank you for the opportunity to provide additional information and clarification.

Sincerely,



SHARON HILLIARD  
Director

cc: Secretary Su