

Congress of the United States
Washington, DC 20515

January 23, 2019

The Honorable Alexander Acosta
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Acosta:

We are writing to request the Department of Labor (DoL) explicitly and clearly provide guidance to states regarding eligibility for “excepted” federal workers who remain on the job in this unprecedented period of federal government shutdown. The 2013 Employment and Training Administration (ETA) guidance memo, which is the most recent issuance of guidelines on this matter and re-stated on January 16, 2019 by Molly Conway, Acting Assistant Secretary at the Employment and Training Administration, states that “essential” or “excepted” federal workers may be ineligible for Unemployment Insurance “because states may determine that they are still fully employed”. This creates a dynamic where furloughed federal employees may apply for unemployment insurance, but “excepted” federal employees, dedicated public servants, who are being required to perform their official duties do not necessarily have that same ability. With the increasing potential for a second pay period to go by on Friday, January 25th and hundreds of thousands of federal employees again missing a paycheck, allowing those who remain on the job due to their “excepted” status the ability to apply for some financial relief is critical and just.

In Oregon, approximately 9,600 federal civilian employees are impacted by the shutdown and those who are deemed essential to show up, are not only showing up, they are serving under the most challenging conditions. Their commitment is admirable, and we owe a debt of gratitude for their service. The Unemployment Compensation for Federal Employees (UCFE) program that affords benefits to civilian federal employees provides that state law determines who is considered unemployed and other benefit eligibility standards. If state laws define the “excepted” federal employees as unemployed, DoL should require states to pay UCFE benefits to those workers. For servicemembers covered by the Unemployment Compensation for Ex-servicemembers (UCX) program, we are also asking DoL to clarify that the current failure to pay servicemembers constitutes grounds to provide benefits to those workers.

Each day the federal government requires “excepted” employees to perform work without pay is untenable and the DoL has the authority to help ease that hardship by allowing these “excepted” federal employees the ability to apply for unemployment insurance. We respectfully request quick and concise clarification by the DoL to that end.

Thank you for your consideration.

Sincerely,



KURT SCHRADER
Member of Congress



RON WYDEN
U.S. Senator



JEFFREY MERKLEY
U.S. Senator



PETER DeFAZIO
Member of Congress



EARL BLUMENAUER
Member of Congress



SUZANNE BONAMICI
Member of Congress