

**Emergency Unemployment Compensation Act of 1991
Questions & Answers for Clarification of P.L. 102-164, as amended**

Documentation of Initial Claim for EUC

1. Q. What information must be gathered and documented in the claimant's initial application for EUC?

A. The initial claim for EUC must contain sufficient information to support the State's determination that the claimant meets the requirements of Section 101(b)(1) of the EUC Act.

Special Claims Forms for EUC Program

1. Q. Are new EUC forms required or can a State use EB forms?

A. States may use regular or EB forms annotated EUC.

Reachback

1. Q. Can claimants be paid for any weeks during the reachback period?

A. No. The reachback period is only used for the identification of potentially eligible claimants. No payment can occur for any week beginning prior to November 17, 1991.

2. Q. The claimant in a reachback State exhausted regular UI after February 28, 1991 on a claim with a benefit year ending date of September 19, 1991. If the claimant had filed a new claim before the quarter change (October), the claim would have been monetarily eligible. Now that the quarter has changed, the claimant no longer has sufficient base period earnings to establish monetary entitlement for a new claim. Is this claimant eligible for EUC?

A. Yes. The fact the claimant may have had eligibility on a UI claim had an initial claim been filed before the quarter change has no bearing.

3. Q. Are reachback provisions in effect for all States or just the States in the highest tier?

A. All States.

Adjudication of Issues Raised by Actions During Reachback Period

1. Q. Does quitting, being fired, or refusing work after exhaustion or BYE, but before EUC was applicable to the State, require the application of the EB (EUC) provisions to any adjudication and determination?

A. No. If under State law such issues would be adjudicated, the issue(s) must be adjudicated. However, such an act would have occurred outside of the individual's EUC eligibility period, therefore, if the adjudication results in a disqualifying determination, the requalification provisions applicable to regular claims apply.

Eligibility

1. Q. Will individuals who have been disqualified for voluntary leaving, discharge for misconduct or refusal of

suitable work on their regular claim be eligible for EUC?

A. As with the payment of EB (Section 202(a)(4), EUCA of 1970) disqualifications for voluntary leaving employment, discharge for misconduct or refusal of suitable work must be terminated by a subsequent work requalification. Without regard to whether or not the claimant has been subsequently employed, the State law must require this requalification before determining those claimants to be eligible for EUC.

Exhaustees for Purposes of EUC

1. Q. If the claimant's monetary entitlement on the "applicable benefit year" regular claim was less than the State's maximum EUC entitlement level, is the claimant eligible for the maximum weeks of EUC payable in the State?

A. No. The claimant is entitled to the lesser of 100 percent of the entitlement (prior to any penalty reduction, including wage cancellations which result in a "zero" benefit entitlement) of the regular claim or the State's EUC benefit duration. This means that an individual that received no regular benefits because of a wage cancellation or benefit penalty reduction is an exhaustee of the original monetary determination for EUC purposes.

2. Q. If an individual exhausted regular benefits or EB prior to March 1, 1991, but the BYE ends on March 1 or later, does the claimant qualify for EUC under the reachback provisions?

A. Yes. Reachback States do not have to determine when the exhaustion occurred if the claimant had an existing BYE on or after March 1, 1991. If the claimant's BYE was prior to March 1, then a State that was in an EB period has to determine when the EB exhaustion occurred. EB exhaustion would have to have occurred after March 1 in order for the claimant to be eligible for EUC.

3. Q. If a claimant's BYE was prior to March 1, 1991, but the claimant exhausted State financed "Additional" benefits (AB) after March 1, 1991, does the claimant qualify for EUC under the reachback provisions?

A. No. The EUC reachback provision does not apply to AB exhaustions after March 1, 1991. However, when an AB claimant's BYE is after March 1, 1991, the claimant is eligible for EUC reachback.

4. Q. The State is in an "additional" benefits period. The costs of the AB program is paid by the State. Must the State continue payment under the AB program or can the State change to the EUC program? If the State can switch to the EUC program, must EUC be reduced by the AB payments?

A. The State can pay EUC if the State has the authority to suspend the AB program when a partially or wholly Federally financed program of benefits becomes payable in the State. Entitlement under the EUC is not reduced by AB benefits.

5. Q. When a claimant has been disqualified from benefits for a period covered by severance pay during the claims series, can the individual draw EUC during the period of the disqualification?

A. No. The claimant does not meet the definition of an exhaustee for EUC purposes.

Deductible Compensation

1. Q. When the State has paid regular shareable benefits to the claimant, must the EUC entitlement be reduced by the amount of the regular shareable benefits?

A. Yes. EUC entitlement is reduced by regular shareable benefits.

2. Q. When a State is in an EB period subsequent to the EUC period and the claimant has been paid EUC based on the same parent claim, are EUC benefits deductible from the EB entitlement?

A. No. P.L. 102-164 (EUC Act, as amended) imposes no requirement and provides no authority to reduce future EB entitlement by the amount of EUC paid.

Jobs Prospect Classification

1. Q. Can the State mail EUC claimants the jobs prospect classification notice of "good" or "not good"?

A. Yes. It is not necessary to obtain the claimant's signature acknowledging receipt of classification notice. However, the State must have documentation that a notice of jobs prospects classification was provided to the claimant.

2. Q. May a State unilaterally issue "not good" job prospects classifications to all EUC claimants?

A. Yes, provided that an opportunity is made available for reclassification based on an individual's assertion that the classification is incorrect.

3. Q. How soon must the State issue a job prospects classification to the claimant?

A. By the end of the week during which the initial claim is filed. (See 20 CFR 615.8.)

Work Search Requirements/Eligibility Review

1. Q. Should a claimant be denied EUC for failing to meet the systematic and sustained work search requirements during a period prior to notification of the requirements?

A. No. The work search requirements of the EB/EUC program are effective for the week following the week of individual written notification (20 CFR 615.8(g)(1)).

2. Q. Do the work search requirements for EB/EUC preclude a State from paying EUC benefits on the basis of a "partial unemployment" claim?

A. No. The Secretary's Claims Filing Standard at Section 5001.B, Part V, Employment Security Manual, provides that "partial unemployment" claims or low earnings reports shall not be required to be filed earlier than 2 weeks from the date that wages are paid for the week. If a "partial claim" or "low earnings report" is the basis for establishing the EUC claim, the claimant will not have been provided with written individual notice of EUC requirements. Additionally, the EB/EUC work search requirements are effective for the week following the week of individual notification.

With respect to assessing work search, UIPL 6-92 advised that the partial claimant's attachment and consistent contact with the regular employer may be considered to meet the requirements of "tangible evidence" of a "systematic and sustained work search".

3. Q. How often is the State required to review the claimant's tangible evidence of a systematic and sustained work search?

A. The State must ensure that the claimant meets the requirements for each week paid. If the claimant does not furnish the tangible evidence required by 20 CFR 615.8(g)(1), then payment may not be made.

4. Q. How often should a State call-in an EUC claimant for an Eligibility Review interview?

A. The call-in interval for claimants classified as "not good" will be determined by the State. Claimants with job prospects classification of "good" must be called in after the expiration of the "reasonably short period" specified by State law in order to review that classification, as only claimants with prospects of returning to employment within a "reasonably short period" may be classified as "good" (See 20 CFR 615.8(d)(2)).

39-Week Benefit Duration

1. Q. Earlier versions of the EUC bill had a 39-week limitation with respect to receiving EUC, does that limitation still exist?

A. No. That provision was not included in the enacted law.

Interstate and Combined Wage Claims (CWC)

1. Q. A claimant filing against a liable State with a 20-week EUC duration moves to an agent State with a 13-week EUC duration, does the claimant receive the liable or agent duration?

A. The liable State's duration.

2. Q. In the past, fully Federally funded extended benefits paid on CWC claims were billed directly to the Federal account by the paying State instead of to the transferring State. Is it the same with the EUC program?

A. No. CWC EUC benefits will be billed to transferring States in the same manner as regular and EB. Because benefits paid to claimants of State and local government, and 26 U.S.C. Section 501(c)(3) non-profit organization employers are reimbursable to the EUCA from general revenue, the State where wages are covered must bill the Federal account and identify such benefits in reporting benefit expenditures (See reporting instructions for ET 2112 in GAL NO. 4-92, Attachment C).

3. Q. How will EUC benefits be identified on the quarterly Statement of Benefit Charges, Form IB-6? Should the column for EB be used?

A. States should prepare a separate Form IB-6, identified as EUC, for benefits paid under the EUC program. EUC benefits may not be billed on the regular quarterly statement in the column identified for EB as this will lead to confusion about how the transferring State is to handle charges as some States have recently been in EB periods.

4. Q. How do you determine the liable State for EUC when a claimant has qualifying existing benefit years in more than one State?

A. the "applicable benefit year" for EUC in order of priority is the claim with the: (1) current benefit year; (2) most recent BYE; (3) most recent activity, (20 CFR 615.2(c)(2)).

Qualifying Monetary/"Parent" UI Claim

1. Q. The claimant's regular UI "parent claim" for EUC may have been established on base period earnings of less than 20 weeks or less than 1 ½ times the higher quarter wages or less than 40 times the WBA. Will this claimant

be eligible for EUC?

A. No. Section 101(d)(2) of P.L. 102-164 requires that EUC is payable under the terms and conditions applicable to claims for EB. Therefore, Section 202a(S), EUCA and 20 CFR 615.4(b) applies.

2. Q. When a claimant's benefits have been reduced either by a cancellation of wages or a reduction in weeks of eligibility, is EUC entitlement calculated on the basis of the original monetary determination or the monetary redetermination?

A. The claimant's EUC benefit account would be based on the original monetary determination before wage cancellation or benefit reduction (Refer to 20 CFR 615.5(a)(1)(i) and (b)(3)). The rationale for the rule is that the claimant has already served the penalty. To base EUC entitlement on the lesser redetermined amount would be tantamount to imposing a second penalty for the same disqualifying act.

Eligibility Period

1. Q. Can EUC weeks be paid on a claim after the end of the benefit year?

A. Yes. However, when the claimant's BYE occurs and at the time of subsequent base period changes during the EUC eligibility, the State must ensure that the claimant does not qualify for regular benefits under any State or Federal law.

Unemployment Compensation for Ex-Servicemembers (UCX)

1. Q. Do the reachback provisions for the payment of EUC apply to UCX claimants?

A. Yes. However, monetary redeterminations under the UCX amendments to extend UCX duration to the maximum amount applicable under State law must take precedence. Therefore, UCX claimants with existing benefit years are not likely to be exhaustees for EUC purposes at this time.

2. Q. Do the UCX amendments apply to the determination of "new" initial claims only?

A. No. The UCX amendments are effective for all weeks beginning on and after the date of enactment. Therefore, all UCX claims with an existing benefit year will be redetermined if an additional or reopened claim is filed on or after November 15, 1991 or benefits are claimed for a week beginning on or after November 17, 1991.

3. Q. Since the UCX amendments removed the 4-week waiting period for UCX claims, are non-waiting week States required to impose a one week waiting period on UCX claims?

A. No. Section 301(a) of P.L. 102-164 repealed 5 U.S.C. 8521(c) and thereby removed any federally mandated waiting week requirement. Therefore, the waiting week requirements of State law apply.

4. Q. For UCX claims effective November 10, 1991 in a non- waiting week State, the first week claimed is after the effective date of the UCX amendments. Do these UCX claimants have to serve the 4-week, a 1-week or no waiting period?

A. The UCX amendments are effective for weeks of unemployment beginning on and after 11/15/91. Thus, in the case described, the week ending 11/16/91 is an unpaid waiting week. However, effective 11/17/91, the claimant does not have to serve any other weeks as a waiting period.

5. Q. Does the elimination of the 4-week waiting period for UCX "first" claims apply only to new claims filed after enactment?

A. No. Effective with weeks of unemployment beginning on and after November 15, 1991, UCX claimants have to serve a waiting period only to the extent that any other claimant filing under the State law is required to serve a waiting period.

6. Q. A Desert Storm reservist with less than 180 days of active duty filed a UCX claim and was determined monetarily ineligible. The claim is recomputed and determined eligible as a result of the UCX amendments. Are weeks claimed prior to the week ending November 23, 1991, payable?

A. No. The UCX amendments are effective for weeks beginning on and after November 15, 1991. It may also be to the claimant's advantage to file a new "first" claim rather than accept redetermination of the prior claim.

7. Q. A reservist did not file a claim after being advised of the 180 continuous days of service requirement (counter denial). Since invalid monetaries are being redetermined, are States required to backdate a claim for individual claimants that were discouraged from filing?

A. No. The State should determine under State law and policy whether or not backdating of a claim is appropriate. However, if the State agency backdates the claim, the State shall not issue any UCX payments for any week(s) of unemployment beginning before November 15, 1991.

8. Q. A joint UCX/UI claim, with a BYE after the effective date of EUC was exhausted prior to November 16, 1991, is redetermined in accordance with the UCX amendments. The redetermination results in a higher maximum benefit amount and thereby leaves the claimant with a benefit balance. Is that balance available for payment to the claimant? Should adjustments be made to the prior reduced payments that were based on UI wages only? How should a State that pays on the basis of effective days treat the redetermination?

A. The MBA balance created by the redetermination is available to the claimant and must be exhausted prior to an EUC determination. However, no adjustments to payments for weeks prior to the effective date of the UCX amendments may be issued. When the State pays benefits on the basis of effective days of unemployment and exhaustion has occurred the redetermination is for purposes of determining EUC entitlement only.

Double Dip EUC Claimants

1. Q. If after the receipt of some EUC benefits a claimant establishes and exhausts a regular UI claim, would that claimant be eligible for another EUC claim based on the most recent exhaustion?

A. Yes. P.L. 102-164 places no restriction on the number of qualifying exhaustions during the EUC program? .

Trade Readjustment Allowances/Disaster Unemployment Assistance

1. Q. Must a TRA or DUA claimant exhaust benefits under those programs before EUC can be paid?

A. No. Benefits are not payable under the TRA or DUA programs when the claimant is entitled to compensation under any other State or Federal law. Therefore, a TRA or DUA claimant must be switched to EUC.

2. Q. If a TRA claimant is currently drawing basic TRA, will the State agency discontinue TRA benefits to pay EUC? What is the effect of the EUC payments on the maximum TRA entitlement?

A. The State agency will discontinue TRA payments to pay EUC (this is true for "basic" or "additional" TRA). The effect of EUC on the maximum TRA entitlement depends on whether the EUC entitlement occurs during the UI benefit period in which the claimant's first TRA qualifying separation occurred. If the EUC entitlement occurs during the UI benefit period in which the claimant's first TRA qualifying separation occurred, the amount of the EUC entitlement during such UI benefit period, will be reduced from the maximum TRA entitlement. If the EUC entitlement occurs during a UI benefit period subsequent to the one in which the claimant's first TRA qualifying separation occurred, the maximum TRA entitlement will not be reduced by the amount of EUC entitlement. However, in the latter case, the claimant is not eligible for TRA until EUC entitlement is exhausted.

3 Q. If a TRA claimant, who is not in training, has exhausted all available benefits (52 weeks), is the individual eligible for EUC?

A Yes, if the claimant meets EUC eligibility requirements.

4. Q. If a State interrupts the payment of TRA to pay EUC, reinstates the payment of TRA upon EUC exhaustion, and subsequently triggers into a higher EUC tier, how will this effect basic TRA entitlement? If a similar scenario occurs during the payment of additional TRA, how will this affect the availability of additional TRA?

A. For both "basic" and "additional" TRA, all EUC entitlement has to be exhausted or reduced to zero, as appropriate, before the continuation of payment on "basic" or "additional" TRA. The maximum "basic TRA" entitlement remains 52 times the UI WBA minus the UI (including EB and EUC) payable during the claimant's first benefit period as described in Section 231(a)(3)(A) of the Trade Act. For the affect upon the maximum payment of "additional TRA", refer to the answer to question # 5 below.

5. Q. If a State interrupts the payment of "additional" TRA to pay EUC, how will this affect the availability of additional TRA after the exhaustion of EUC?

A. If EUC payable to the worker occurs during a week where the worker is eligible for additional TRA, each week the worker receives EUC will count against the 26 consecutive week period for which additional TRA is payable. Additional TRA may be payable after the exhaustion of EUC provided that such TRA eligibility is within the 26 consecutive week period in which additional TRA is payable.

Overpayment Recovery

1. Q. Are the fraud and overpayment provisions of EUC the same as they were for EUC?

A. Yes.

2. Q. Can EUC weeks claimed be used to offset outstanding overpayments?

A. Yes. Fifty percent of the amount payable for an EUC week claimed may be used to offset any Federal program overpayment. Additionally, if the State has signed a Cross-Program agreement with the Secretary, EUC benefits may be used to offset any State overpayment. EUC benefits may only be used to offset State or Federal overpayments for another State under the Interstate Reciprocal Overpayment Recovery Arrangement, if both States have signed a Cross-Program agreement. However, in all cases, the recovery of a Federal benefit overpayment takes precedence over the recovery of State overpayment by offset of EUC.

EUC Trigger Notice

1. Q. Which Department or Agency will publish the TUR rates?

A. ETA will publish the EUC trigger notices which will be based on TUR information published by BLS. The notices will be FAXed to ETA Regional Offices on Fridays.

2. Q. Will the unemployment rates used for the trigger rates be seasonally adjusted?

A. There are alternative trigger rates. The TUR will not be seasonally adjusted. The TUR will be adjusted to include exhaustees. Refer to GAL No. 4-92 for specific information concerning the trigger rates.

3. Q. How often can a claimant's benefit duration be switched up/down based on the trigger rate?

A. A claimant's entitlement to EUC can only be increased if the State triggers to a higher level, it cannot be decreased by the State trigger to a lower level. However, the State can trigger up or down as often as is determined by the Trigger provisions.

Administrative Costs

Q. How will the administrative costs for the EUC program be handled?

A. Through the UI-3 process. Refer to GAL NO. 4-92 for specific instructions.

2. Q. Will States be funded at a uniform MPU for EUC initial claims?

A. No. Funding for EUC will be based on each regular initial claims MPU. By funding at regular MPU level, State's will be able to recover start-up costs.

3. Q. How will States be funded for the monetary redetermination of the UCX claims?

A. Funding for UCX redeterminations will be based on an MPU value of no more than 25 minutes. States should use a lesser value MPU if they deem it appropriate.

Reporting Requirements

1. Q. How will EUC activity be reported?

A. See reporting instructions in GAL NO.4-92.

Benefit Financing/ETA 2112 Reporting

1. Q. What Trust Fund account will used for drawdowns for the payment of EUC?

A. The Extended Unemployment Compensation Account (EUCA). However, States will have to separately identify benefit amounts paid for all claims based on State and local government employers, UCFE, UCX, and 26 USC 501(c)(3) nonprofit employers when reporting on the ETA 2112 as the law provides for general revenue to reimburse EUCA for those benefits.

2. Q. Since EUC benefits are being funded from EUCA and general revenue, do SESAs have to report payments separately?

A. See reporting instructions for the ETA 2112 in Attachment C to GAL NO. 4-92.

3. Q. The EUC program provides for reimbursement from general revenue for benefits paid as a result of claims based on employment for a governmental or reimbursable non-profit employers. When regular benefits based on such claims would not be chargeable to the account of such base period employer(s) are EUC benefits based on such claims included in the breakout for State and local and non-profit employers when reporting on the ETA 2112?

A. No. The reimbursement of benefit costs to the EUCA account from general revenue applies to benefits that would be otherwise chargeable to State and local governments or 26 U.S.C. Section 501(c)(3) employers that do not contribute to the EUCA account.

Governor's Election of EB "Off" Trigger

1. Q. When a State's law does not specifically authorize the Governor to elect to trigger EB "off", how can this be accomplished?)

A. The State is responsible for interpreting its law to permit the suspension of the EB period so that EUC can be paid instead of EB. The Attorney General of any State whose law includes provisions for a liberal interpretation of its provisions or a recognition that the economic well-being of its citizenry is an important consideration in the interpretation should be able to provide the interpretation needed for this action.

2. Q. When a Governor of a State elects to trigger "off" EB and "on" EUC, is the "off" trigger required to remain off for the duration of what would have been the EB period, or does the Governor have the option of electing an EB "on" trigger at a later date or must an EUC period remain in effect in the State for the duration of the EUC Program?

A. The statute permits the State to elect EUC over the payment of EB. There is no statutory requirement with respect to the duration of the specific election. In making such election, the Governor should take into consideration the effect of duration and protect the economic well-being of the States citizens.

Program Audits

1. Q. Who will audit the State's payment of EUC and will States be held harmless for unavoidable errors due to incomplete or inconsistent instructions?

A. The States' administration and payment of benefits under any State or Federal law is subject to audit by the Department's Office of the Inspector General and the General Accounting Office. Whether or not either will conduct audits is unknown at this time. However, States are not held liable for payments consistent with existing instructions at time of payment.

The State may also be audited by the State's audit entity under the Single Audit Act.